



eCOMMONS

Loyola University Chicago
Loyola eCommons

Dissertations

Theses and Dissertations

2016

Remains to Be Seen: Execution and Embodiment in the Early English Atlantic World

Erin M. Feichtinger
Loyola University Chicago

Follow this and additional works at: https://ecommons.luc.edu/luc_diss

 Part of the [European History Commons](#)

Recommended Citation

Feichtinger, Erin M., "Remains to Be Seen: Execution and Embodiment in the Early English Atlantic World" (2016). *Dissertations*. 2130.

https://ecommons.luc.edu/luc_diss/2130

This Dissertation is brought to you for free and open access by the Theses and Dissertations at Loyola eCommons. It has been accepted for inclusion in Dissertations by an authorized administrator of Loyola eCommons. For more information, please contact ecommons@luc.edu.



This work is licensed under a [Creative Commons Attribution-Noncommercial-No Derivative Works 3.0 License](#).
Copyright © 2016 Erin M. Feichtinger

LOYOLA UNIVERSITY CHICAGO

REMAINS TO BE SEEN:
EXECUTION AND EMBODIMENT IN THE EARLY ENGLISH ATLANTIC WORLD

A DISSERTATION SUBMITTED TO
THE FACULTY OF THE GRADUATE SCHOOL
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

PROGRAM IN HISTORY

BY
ERIN M FEICHTINGER
CHICAGO, ILLINOIS
AUGUST 2016

Copyright by Erin Feichtinger, 2016
All rights reserved.

ACKNOWLEDGMENTS

As much as writing a dissertation feels like a solitary exercise, I know that I could not have succeeded without the love and support of a diverse group of mentors, friends, and colleagues. All of these people deserve more than an Acknowledgments section.

First I suppose I must thank Loyola University Chicago for allocating enough funding for me to complete my coursework and research. I extend my best wishes to the administration in their struggle to balance their increasingly capitalist principles with the need to develop academic curiosity in undergraduates, and sincerely hope they seek to strengthen their commitment to the mission of social justice. This includes paying professors what they are worth. Campus workers deserve a living wage. Our students' opinions are the lifeblood of our institution, not an embarrassment.

Most of all, I would like to express my deepest gratitude to the History Department at Loyola who took a chance on me six years ago and accepted me into the Ph.D program. Dr. John Donoghue encouraged me to apply to the program after what was, I suppose, a pretty good midterm essay in an undergraduate class on Pirates and Sailors in the Revolutionary Atlantic. I have no doubt he played some part in shepherding my application through to admission and full funding. I will always be immensely grateful for that encouragement. Dr. Marek Suszko was my very first professor as an undergraduate at Loyola, and over the course of ten years has been a teaching mentor, dear friend, and close confidante. He owns the only copy of my first children's book, *Mao and the Big Red Bicycle*.

Two people in particular merit their own space here. Dr. Suzanne Kaufman took me on early in my graduate school career after a discussion of Michel Foucault's *Discipline and Punish*. She did not have to do so, especially since her scholarship has nothing to do with mine. Her belief in not only my work, but also in the principles which I hold dear, has been an incredible source of stability and calm in an otherwise chaotic and emotional journey. The countless hours of conversation between us have shaped who I am as a scholar and as a person, and I will forever be immensely grateful for her being a part of my life. Dr. Robert Bucholz is an incredible teacher, scholar, and mentor whose impact on my life, scholarship, and teaching is immeasurable. He, too, took me on as a student when he had already decided not to mentor anyone. There must have been something in the water that year. His passion for teaching was a constant inspiration to me. His commitment to my development as a human being and as a scholar is invaluable. To Suzanne and Liege Lord, this dissertation would not have been possible without you. The same goes for who I am today and who I hope to be in the future. I love and respect you both.

And now for the fun part. I have had the good fortune of being a part of the best group of graduate students and friends that a lifelong nerd could dream of. My cohort was small by most standards, but huge if measured in personality and volume (I am looking at you, Dr. Dan Ott). Amelia Serafine has made me laugh since the first time I met her in the Atlantic World class and she described her research interests as "I'm into tramps." The depth of her intelligence is a constant source of amazement, and the way she lives her life is an inspiration. Dr. Dan Ott took the heat off of me for most energetic member of the cohort. He, too, is brilliant. His zeal for learning and passionate debate keeps us all

engaged as scholars and friends, while his dedication to just plain work on the basketball court has solicited many a foul and secured many a basket. I had the great fortune of coaching Dan and others through several losing intramural basketball seasons as Team Discipline and Punish. Dr. Theodore “TK” Karamanski has not only been one of my biggest cheerleaders, but he was surprisingly agile on the court for an old man. His sense of humor will undoubtedly allow him to forgive me for saying so in writing. Dr. Devin “Uncle 2Pelo” Hunter has been like a brother to me, as well as my other half in the most dynamic PG-PF duo in History department memory. Dr. Anthony “Fat Tony” DiLorenzo, a fellow Atlanticist, and I have spent innumerable hours arguing, talking, and drinking over the past seven years. The other Atlanticist, Dr. Pete “Roundhead” Kotowski, commiserated with me in our shared struggles. Nathan “Discourse” Jérémié-Brink’s unflagging optimism and dedication to his principles has many times saved me from going completely off the deep edge of cynicism. Matthew Sawicki is a hero, plain and simple. Amy Oberlin traveled with me to London for a month of research in the archives. Her friendship and support extends to cocktails and rousing renditions of the *Rocky Horror Picture Show* soundtrack. Aaron Brunmeier began the program with me, and dreamed his way to different paths in life. He was my “Maid of Honor” and remains my best friend.

My family is loud, opinionated, and incredible. My mom, Michele Ernst, and dad, Matt Feichtinger, have always expected nothing short of the best from all of us, and they have encouraged us to develop our beliefs and stand by them. Dinner conversations now that we are all principled adults sometimes leaves them reconsidering that earlier position. I am proud to call you both my parents, and I would say you did pretty well.

Trust me, I am a Doctor now. My siblings Molly, Katy, and Tommy, are some of the most exceptional and compassionate people I have the pleasure of knowing. Then again, Feichtinger does mean “champion”. These sentiments apply as well to my extended Romero family. I recently married into an exceptionally warm and welcoming family whose sons, perhaps by accident, are all married to a Dr. of some form or another. To the entire Cavanaugh and Barrett families, your acceptance of me as a daughter, sister, cousin, and intellectual is pretty incredible and I am grateful to you for everything that you do and what you stand for. My adopted family at A Just Harvest Community Kitchen in Rogers Park fed my body and my soul. L’Tonya and Mama T are wonderful human beings and even better examples of humanity. To all of my families, in the words of Mama T, “I love you, and there’s nothing you can do about it.”

My partner Chewy has been by my side through all of this. He is absolutely, without a doubt, the best person I know. His dedication and compassion to others continues to pull me out of the books and into the world. His dedication to me and my goals makes me the luckiest person on the planet. His annoyance with hyperbole does not apply to situations like this. As the Boss says, together we can live with the sadness, and I love you with all of the madness in my soul.

TABLE OF CONTENTS

ACKNOWLEDGMENTS	iii
LIST OF FIGURES	viii
INTRODUCTION: A WARNING	1
CHAPTER ONE: “WHO THROUGH MORTALITY HAD FAILED” CRIMINALIZATION AND COMMODIFICATION IN VIRGINIA	32
CHAPTER TWO: “THE CAREFUL ENDEAVOURS OF MR ORDINARY” THE BODY POLITIC AND BODY CONDEMNED AFTER THE GLORIOUS REVOLUTION	105
CHAPTER THREE: “MAKE GENTLEMEN OF THEM ALL” LABOR, AGENCY, AND THE BODY IN THE GOLDEN AGE OF PIRACY	158
CHAPTER FOUR: “ON THE IMPOSITIONS OF QUACKS” SURGEONS, THE CONDEMNED, AND THE MURDER ACT OF 1752	219
CONCLUSION: ON DIVISIONS	267
BIBLIOGRAPHY	276
VITA	289

LIST OF FIGURES

Figure 1. William Hogarth, <i>The Consultation of Physicians (Arms of Undertakers)</i> , 1736	219
Figure 2. William Hogarth, <i>The Death of the Harlot</i> , 1732	238
Figure 3. William Hogarth, <i>The Reward of Cruelty</i> , 1751	251

INTRODUCTION

A WARNING

Throw the forbidden places open
Let the dragons and the lions play.
Let us swallow the worm of power
And the name pass away.

- E.P. Thompson, "A Charm Against Evil"

It should be understood from the beginning that this will not have a happy ending.

Most of the people in the following pages were poor, destitute, and desperate, and lost their lives as a result of concerted efforts by those who claimed authority over them to control their bodies and make them useful. Failing that, hard labor, the noose, the gibbet, and the dissection table would complete the work in death that the body could not perform in life. These various authorities were less concerned for the well-being of the most vulnerable of their society than they were for either the accumulation of profit, the maintenance of a specific social and political order that favored the better sorts, the protection of a profitable Atlantic trading empire, and the pursuit of scientific knowledge.

This dissertation begins in the late sixteenth century in the charnel house that was England's first colonial experiment in Virginia and ends in the surgical theater of mid-eighteenth-century London. Contained within these two centuries was a "a series of increasingly desperate attempts by the elites" to control the body politic "and wrest it to their own purposes in an age of rapid change from a feudal, corporatist society to a

capitalist, free market social system.”¹ The transition between the two systems was contentious and tenuous at even the best of times. What undergirded the success of the eventual capitalist system was the ability of the State to control the bodies of its subjects in such a way that individual agency over the body and its labors could not be claimed by the person whose body it was, but, rather, by whichever authority needed its output the most.

Between the time of its creation in 1606 and its dissolution in 1624, the joint-stock Virginia Company of London invented a new form of labor relations that reduced the laborer to the status of chattel bond-servitude wherein the employer, rather than the laborer, owned and controlled labor as property in order to accrue maximum profits from the laborer’s body. This labor regime was enforced by a succession of laws that dissolved the distinctions between specific types of laborer such as tenant, agricultural laborer, and apprentice, while at the same time solidifying the line between those who were to work and those who would profit from that work. That line would be redefined by a growing professional class in late seventeenth-century England who expressed concern for the protection of their property and capital from the poor. Their rise, paired with systemic problems in employment and poor relief, led to a disproportionate number of the lower sorts met their end at the permanent gallows at Tyburn as a result of systemic problems in employment and poor relief paired with the rise of a growing professional class who expressed concern for the protection of their property and capital from the poor. After the Glorious Revolution of 1688, the traditional ruling elite undertook a campaign to define

¹ Richard Evans, *Rituals of Retribution: Capital Punishment in Germany, 1600 – 1987* (Oxford: Oxford University Press, 1996), 184.

and justify their authority to the professional class and the lower sorts. In part, this campaign took place in the Ordinary of Newgate's *Account* and its use of the body of the condemned to delineate the boundaries of a body politic operating without its divinely-appointed head. By articulating a language of inclusion into that body politic based in the workings of the soul rather than the performance of the body, the Ordinary and the traditional ruling elite could more firmly control the bodies of the lower sorts in practice. This concern for controlling the bodies of English subjects was amplified by the beginning of the eighteenth century, when one of England's most important group of laborers, sailors, rebelled on a massive scale against the restrictions placed on their agency by an emerging Atlantic capitalist system in the Golden Age of Piracy from 1714 to 1726. The High Court of Admiralty, the judicial body in charge of policing sailors and trade, found itself negotiating the expectations of capital in conflict with the traditional expectations of sailors' agency in directing and deploying their own labor. This negotiation took place on a case-by-case basis and relied on the competing perceptions of agency, labor, and the body held by sailors and the State. At the same time, surgeons in London were attempting to establish their legitimacy as professionals by justifying the practice of dissection as a progressive step towards scientific knowledge. Both the High Court of Admiralty and the surgeons struggled in their endeavor to define and use the body for their specific purposes because of the existence of an entrenched belief in the connection between body and soul that granted the individual a level of ownership over their own body and its labors. In each of the moments described above, the ability of

authority to overcome that belief rested, at least in part, on the redefinition and manipulation of the criminal body.

The central feature in each of the chapters in this dissertation is the criminal body. Think of this dissertation as a whole as a morbid perversion of the life-cycle, of defining the criminal body (Virginia), justifying that criminalization (the Ordinary), destroying the criminal body (pirates), and making useful the criminal body after death (the surgeons), or birth, life, death, and afterlife. This long process, taking place across nearly two centuries and in various places around the English Atlantic, eventually solved what authorities believed was a serious problem: how do we make the body work for us and our particular purposes? It must be noted from the start that the distinction of “criminal” almost exclusively applied to the lower sorts of people in the English Atlantic. Because the poor were only deemed useful as a result of their labor, the perception of “Idleness” made the poor man or woman (or child) unworthy and undeserving, distinctions that were only a very short distance away from “criminal” and, in the early modern English legal system, condemned.

Each chapter relies on different historiographies, but two in particular undergird the entire project. First, the history of the body is perhaps the most influential though not always the most evident in each chapter. This is a contentious and amorphous field, as historians fall at various points on a line between analyses that focus on the discursive or the corporeal. Some focus solely on the external constructions imposed on the body, which in this case could mean “idle”, “worthy”, “criminal”, or “moral”. Others analyze historical subjects’ experiences of their physical body, such as in the case of the pirates

who indulged their bodies as an explicit rejection of an emerging capitalist system that attempted to constrain their agency, or the crowds at Tyburn in the early eighteenth century who rebelled against the surgeons as they attempted to impose their own vision of what the body meant. One point on which most historians agree is that the separation of discourse from its corporeal element is anachronistic, if not ahistorical, before the eighteenth century. Instead of attempting to separate the early modern body into its ideological and physical components, this dissertation acknowledges Lyndal Roper's assessment that historians of the early modern period must "learn to admit the psychic and the corporeal" or else "we shall never truly encounter the past."² Peter Stallybrass and Allon White argue that the "body cannot be thought separately from the social formation, the symbolic topography, and the constitution of the subject." Combining both the cultural and physical, the "body is neither a purely natural given nor is it merely a textual metaphor, it is a privileged operator for the transcoding of these other areas."³

In the experience of colonists under the Virginia Company, the transformation of labor relationships to include chattel bond-servitude of English subjects was justified by the failure of "Idle" bodies, a narrative created and enforced by the Virginia Company as a means to explain its own overwhelming failure. The Ordinary of Newgate and the traditional ruling elite whose desires he represented redefined the performance of the condemned body in order to explain and support the consequences of the Glorious

² Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality, and Religion in Early Modern Europe* (London: Routledge, 1994), 27.

³ Peter Stallybrass and Allon White, *The Politics and Poetics of Transgression* (Ithaca: Cornell University Press, 1986), 192.

Revolution. Sailors and pirates used their own bodies to either assert or relinquish agency over their labor. The High Court of Admiralty ultimately redefined the limits of agency over labor in their determination of guilt or innocence that relied in the first place on the location and demeanor of the body while it labored. Surgeons attempted to convince the body politic of their scientific view of the body as merely flesh. Members of the body politic refused to stomach that conception. Failing this, the surgeons aligned their goals with those of the State in their use of the condemned body to justify the benefits of their profession.

The early modern body was still understood as a largely unknowable, mysterious, physical, and personal entity.⁴ Early modern people envisioned almost every aspect of their lives and world through a strictly hierarchical worldview, and this worldview was experienced and enforced in the material experience of the body. As the corporeal vessel, the body held tremendous importance in providing the visible cues for other hierarchies, and was “a pivotal metaphor of the English nation-state.”⁵ The physical body also provided the most accessible template for enforcing the social hierarchy through the language and experience of material existence. The metaphor “body politic” in the early modern world was therefore conceptualized as a physical body, with the King as the head

⁴ For similar assessments of this conception of the early modern body see Roy Porter, “Bodies of Thought: Thoughts about the Body in Eighteenth Century England,” in *Interpretation and Cultural History*, ed. J. Pittock Wesson and Andrew Wear, 82-108 (London: 1990).; Laura Gowing, *Common Bodies: Women, Touch, and Power in Seventeenth-Century England* (New Haven: Yale University Press, 2003).; Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality, and Religion in Early Modern Europe* (London: Routledge, 1994).; J Broadbent, “The Image of God, or Two Yards of Skin,” in *The Body as a Medium of Expression*, ed. J Benthall and T. Polhemus, 305-326 (New York: Dutton, 1975).

⁵ Robert Blair St. George, *Conversing by Signs: Poetics of Implication in Colonial New England Culture* (Chapel Hill: University of North Carolina Press, 1998), 150.

and all others servicing the needs of the center – such as laboring hands and arms of the state. Arms could not smite the head without destroying themselves, just as the legs could never become the head or vice versa. Alternatively, the head could exist without an arm or hand, and thus the criminal who violated the divine order was understood as expendable.⁶ The body politic residing within the King's immortal body represents one version of this corporeally-based worldview; the executed criminal is another. As Foucault reminds us, "In the darkest region of the political field the condemned man represents the symmetrical, inverted figure of the king ... in order to code the 'lack of power' with which those subjected to punishment are marked."⁷ Both instances can only exist in a world that found the divine or universal in the corporeal. As tremendous social, cultural, and political changes rippled throughout the Atlantic, the body's place within the

⁶ Ernst Kantorowicz, *The King's Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957).; Dorinda Outram, *The Body and the French Revolution: Sex, Class and Political Culture* (New Haven: Yale University Press, 1989) analyzes how the French Revolution created an imperative in establishing a new republican authority through the redefinition of citizen's bodies.; Mary Poovey, *Marking a Social Body: British Cultural Formation, 1830-1864* (Chicago: University of Chicago Press, 1995) demonstrates how the concept of the body politic shifted in the nineteenth-century but remained relatively stable.; Richard Sennett, *Flesh and Stones: The Body and the City in Western Civilization* (New York: W.W. Norton and Company, 1994) argues that the idea of the body politic arose from a much longer cultural process borne out in the construction of cities to facilitate a strictly hierarchical conception of human beings and the order of their interactions.; Sara E Melzer and Kathryn Norberg, ed., introduction to *From the Royal to the Republican Body: Incorporating the Political in Seventeenth and Eighteenth France* (Berkeley: University of California Press, 1998): 1-10. Melzer and Norberg argue that French courtiers, Jacobins, and republicans all sought to "embody authority" in various ways. In the French Revolution, the Jacobins behead the physical King in an attempt to destroy the metaphorical body politic, but even in so doing sought to impose a new body order where bodies "needed to bear visible signs that conveyed political allegiance. Bodies without signs were unreadable and therefore suspect or dangerous."; David Cressy, "Lamentable, Strange and Wonderful: Headless Monsters in the English Revolution," in *Monstrous Bodies/Political Monstrosities*, ed. Laura Lunger Knoppers and Joan B. Landes, 40-63 (Ithaca: Cornell University Press, 2004) applies what historians of the body find in the French Revolution to the English Revolution, namely how the performance and functioning of rebellious or royalist bodies was interpreted by English contemporaries to support or criticize each other.

⁷ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Pantheon, 1977), 29.

universe was similarly altered. By the end of my period of study, after 1752, this corporeally-based worldview was quickly falling away in favor of knowledge and expertise, offered by a wide range of authorities such as reformers, philosophers, doctors, and politicians. Their perception of the body privileged knowledge over experience, and reflected a larger ideological transition over the course of the seventeenth and eighteenth centuries that Norbert Elias has called the “civilizing process.” As the State became increasingly centralized, controlling the body politic became an internal process regulated by social rules, as opposed to relying on brute force and a metaphor that was grounded in the corporeal experience of society’s members. The chronically insecure State stabilized as a result of an expanding bureaucracy, and the need for the public execution as a way to bolster a fragile political structure went away, and punishments became rather “impersonal” and private.⁸

Because of this worldview, the early modern body as a material entity could not be separated from its ideological confines, just as ideology and beliefs about the world existed within and through the material and physical. The body’s ability to explain and reveal cosmological and spiritual truths was a given in the early modern world. For the execution, this meant that the gallows was a shared culture of experience between authority and the body politic at the center of which stood the “language of the martyred and suffering body.”⁹ “Decoding the language of the violated, destroyed, and dismembered body, a language expressed not merely in words, but also in movement,

⁸ Norbert Elias, *The Civilizing Process* (Oxford: Blackwell, 1994).

⁹ Evans, *Rituals of Retribution*, 64.

space, colour, [and] gesture” meant that the condemned body, and the truths it expressed about the cosmological and temporal order, was an important epicenter demonstrating the truth of authority, obedience, and the righteousness of progress.¹⁰ For the body politic, the criminal and the condemned were “an infection of the social body [and] Mercy for a decayed limb [could] only imperil the whole.”¹¹ Defining what was and was not criminal relied on the body of the criminal and the ability of authorities to interpret for the body politic what, specifically, was so dangerous about that particular body and why it needed to be destroyed. While “the state has no greater power over its own citizens than that of killing them,” the State still had to justify that power to the body politic.¹² No matter who claimed that authority, whether it be the Virginia Company, an English ruling elite operating apart from its divinely-appointed monarch, the High Court of Admiralty, or surgeons, that justification relied in the first place on the perceptions and performance of the criminal body.

Historians of the body have tackled race, gender and sexuality, science, medicine, philosophy, and even deathways and funerary practices, but few have applied a theory of the body to the criminal or the execution.¹³ Some historians of crime and punishment

¹⁰ Ibid.

¹¹ Lisa Silverman, *Tortured Subjects*, 59.

¹² Richard Evans, *Rituals of Retribution*, vii.

¹³ For race, see Kim F. Hall, *Things of Darkness: Economies of Race and Gender in Early Modern England* (Ithaca: Cornell University Press, 1995) and Jean Elizabeth Feerick, “Reproducing Race: Early Modern Bodies and the Construction of National Difference” (PhD diss., University of Pennsylvania, 2002).; For gender and sexuality see Lucy Bland and Laura Doan, eds., *Sexology in Culture: Labeling Bodies and Desires* (Chicago: University of Chicago Press, 1998), Jennifer L Morgan, “‘Some Could Suckle Over their Shoulder’: Male Travelers, Female Bodies, and the Gendering of Racial Ideology, 1550-1770,” *William and Mary Quarterly* 54 (1997): 167-192, Laura Gowing, *Common Bodies: Women, Touch, and Power in Seventeenth-Century England* (New Haven: Yale University Press, 2003), Susan R. Bordo, “The Body and

have attempted, as Caroline Walker Bynum says, to put the body “back on the table.”¹⁴

Richard Evans’ study of capital punishment in early modern Germany states

It is important to remember here that what we are dealing with is real bodily violation, real suffering, real death. Rather than lose contact with this fundamental fact- with the basic realities which underlay all the fine talk about deterrence, all the political maneuvering, all the administrative punctiliousness, all the literary transfigurations, which characterized the discourse and culture of the death penalty...living human beings, executioners ... were torturing, mutilating, and killing other living human beings, offenders, at the behest of the state.¹⁵

In the same vein, Randall McGowen finds the body a natural starting point for an analysis of punishment in eighteenth-century England.¹⁶ The body was the most useful and potent space to display the power and authority of the State in the early modern world, and “was a medium for representing other themes. The symbolism of punishment was employed to point beyond the body to relations within society, to the natural unity of society, and to its human and divine purpose.”¹⁷ Execution had a larger ideological meaning because what people “saw and reacted to was the treatment of the body; this was the only meaning the

the Reproduction of Femininity: A Feminist Appropriation of Foucault,” in *Gender/Body/Knowledge: Feminist Reconstructions of Being and Knowing*, eds. Alison M. Jaggar and Susan R. Bordo, 13-33 (New Brunswick: Rutgers University Press, 1992), Simon Richter, *Missing the Breast: Gender, Fantasy, and the Body in the German Enlightenment* (Seattle: University of Washington Press, 2006), Peter Fryer, *Mrs. Grundy: Studies in English Prudery* (London: House and Maxwell, 1963), Michel Foucault, *History of Sexuality* (New York: Pantheon Books, 1978), Thomas Laqueur, “Orgasm, Generation and the Politics of Reproductive Biology,” in *The Making of the Modern Body*, eds. Catherine Gallagher and Thomas Laqueur, 1-41 (Berkeley: University of California Press, 1987).

¹⁴ Caroline Walker Bynum, “Why All the Fuss about the Body? A Medievalist’s Perspective,” *Critical Inquiry* 22 (1995): 5.

¹⁵ Richard J Evans, *Rituals of Retribution*, xiii.

¹⁶ Randall McGowen, “The Body and Punishment in Eighteenth-Century England,” *Journal of Modern History* 59 (1987): 652 – 679.

¹⁷ *Ibid.*, 654.

ritual possessed. Individuals saw the fate of one body, and all it could signify was the fate of their own physical existence.”¹⁸ The criminal and condemned body also helped to define and affirm the set of rules by which society operated, and in times of transformation or crisis the need to display those rules became especially acute. Capital punishment, no matter its use, was and is “situated in a certain ‘political economy’ of the body,” and is utilized by authorities to justify its existence. As described by Foucault,

...even if they do not make use of violent or bloody punishment, even when they use ‘lenient’ methods involving confinement or correction, it is always the body that is at issue – the body and its forces, their utility and their docility, their distribution and their submission.¹⁹

In each of the chapters, those in authority faced a problem that facilitated the development of a novel conception or manipulation of the criminal body that had significant repercussions for the rest of society. While disparate authorities existed, there was one particular population across each of the chapters who was targeted for both control and criminalization by authority: the laboring poor.

Thus, the second historiography that informs this dissertation is Marxist social history. The arguments presented here operate on the basic assumption that once considerations for capital are injected into the social fabric, the result is a corrosion of those human qualities such as empathy that benefit the common weal. For the laboring poor, the slow march toward a capitalist economic system was often a fatal one. As Peter Linebaugh so eloquently states, “the same word, ‘capital’ has come to mean both crimes punishable by death and the accumulation of wealth founded on the produce of ...

¹⁸ Ibid., 671 – 672.

¹⁹ Foucault, *Discipline and Punish*, 25.

labour.”²⁰ By the close of this dissertation in the mid-eighteenth century, the social and economic ruptures brought about by the transition to capitalism in England were being worked out through one of the most comprehensive and expansive capital codes in the Western world. Douglas Hay argues that the sentence of death was a necessary response to crime for the commercial and ruling elite. These elites desired to protect their capital gained from both the Atlantic trade and increasing industrialization, from the lower sorts who were not supposed to direct their own labor for their own capital, but rather in service of its accumulation for others.²¹ As more people accumulated capital and property, there occurred a perceived rise in crime against those possessions, and the identification of the poor, who had been dispossessed by the same process that made the rich only richer, as those responsible for crime. Capital punishment asserted a specific type of modern economic authority while also relying on an early modern display of that power in the execution. Early modern England thus became, according to Hay, “a society with a bloody penal code, an astute ruling class who manipulated it to their advantage, and a people schooled in the lessons of Justice, Terror and Mercy.”²² Linebaugh’s assessment of the reasons for hanging 1,242 English men and women in the eighteenth century follows Hay’s analysis of the relationship between property and the criminal code. Workers’ traditional “moral economy” of labor and its rewards, fueled by the Atlantic economy, fell victim to capitalism. Instead of workers receiving what they

²⁰ Linebaugh, *The London Hanged*, xvii.

²¹ Douglas Hay, “Property, Authority and the Criminal Law,” in *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (New York: Pantheon, 1975), 17-64.

²² *Ibid.*, 62-63.

believed were the fruits of their labor, manufacturers and merchants allied with the State to create a legal system antithetical to that traditional moral economy. This alliance led to the enclosure of common lands and access to a market economy denied to laborers because of a lack of education and opportunity for upward mobility.

The connection between a history of the body and a history of capitalism in the Marxist vein is in the criminal and condemned body, for political and economic power in the early modern world was dependent upon the ability to control the labor of the body. No machines existed in the sense that they do now to sever the body from its personal productive output. Indeed, “it is largely as a force of production that the body is invested with relations of power and domination; but, on the other hand, its constitution as labour power is possible only if it caught up in a system of subjection.”²³ Those who would be criminal and condemned were certainly living within this system. In Virginia, the creation of a chattel bond-servitude by the late 1620s was founded on the preceding formation of an ‘Idle’ English body that through its failure to labor, justified its own repression by a severe and unequal labor regime. The Ordinary of Newgate struggled to convince his congregation of the condemned that they could not claim agency over their bodies when they transgressed against a ruling elite who exerted their right to control the bodies of the poor as a means to justify their own power, and ensure that the lower sorts only aimed so high. The British State through the High Court of Admiralty restrained the agency of sailors and murdered them in spectacular ways around the Atlantic when they sought not only to reclaim their stolen agency, but offended merchants and profiteers

²³ Foucault, *Discipline and Punish*, 26.

when they created a perversion of the emerging capitalist system. The crowd at Tyburn rioted against surgeons because the lower sorts had, by that point, lost agency over their labor and were denied access to the economic benefits of the British financial revolution. When the surgeons attempted to claim ownership over the body in death, the results were dramatic. Punishment was the unifying force across these specific contexts, it was “diffuse, rarely formulated in continuous, systematic discourse ... often made up of bits and pieces ... [and] implement[ed] a disparate set of tools or methods,” that culminated in a “coherence of its results.”²⁴

Execution in the early modern English Atlantic expressed myriad types of authority and served various ends depending on the social, cultural, political, and economic contexts. Beliefs about the body – its capacities and its worth – were central to the definition, justification, and affirmation of authority in the early modern world. The Hobbesian question, “How is society possible?” was worked out in moments of crisis through the criminal body and the public execution. In order to control *all* bodies, authority was demonstrated through one – the condemned. The execution was not just about authority, it was also an expression of what bodies meant to each community, and what they could and should be in the immediate and distant future. Execution could reify or reshape the meaning of the body to the community from the top down, just as much as the condemned could use their own body to shape subsequent conceptions and assertions

²⁴ Foucault, *Discipline and Punish*, 26.

of authority. The public execution was a productive, not a destructive process, and the criminal body was at the center of it all.²⁵

Virginia

This chapter analyzes the creation of a particular narrative of labor and laboring bodies in the first decades of England's colonial experiment in Virginia under the Virginia Company from 1607 to 1624. Despite the assertions of certain historians such as Andrew Fitzmaurice that the Virginia Company articulated an ideology of "the values of a perfect commonwealth based in political action and involvement in the public good," the Virginia Company consistently demonstrated that its primary intention in the colony was the accumulation of profits at whatever cost.²⁶ As Jack Greene has noted, the Company may have initially "conceived of Virginia as considerably more than a purely economic venture," but all other concerns "were thoroughly overridden by the race for tobacco profits."²⁷ The financial success of the Company and the colony depended entirely on its labor force, and as Sharon Vineberg Salinger points out, "procuring an adequate labor force provided the key to earning substantial profits."²⁸ The Company

²⁵ This is an attempt to flesh out what Foucault rightly posits as the purpose of writing a history of punishment and of the body, that "We must analyse rather the 'concrete systems of punishment'...we must situate them in their field of operation, in which the punishment of crime is not the sole element; *we must show that punitive measures are not simply 'negative' mechanisms that make it possible to repress, to prevent, to exclude, to eliminate; but that they are linked to a whole series of positive and useful effects which it is their task to support* [emphasis mine]," 24.

²⁶ Andrew Fitzmaurice, "The Civic Solution to the Crisis of English Colonization, 1609 – 1625," *Historical Journal* 42 (1999): 25 – 51, 35.

²⁷ Jack Greene, *Pursuits of Happiness: The Social Development of Early Modern British Colonies and the Formation of American Culture* (Chapel Hill: University of North Carolina Press, 1988), 11

²⁸ Sharon Vineberg Salinger, "Labor, Markets, and Opportunity: Indentured Servitude in Early America," *Labor History* 38 (1997): 311 – 338, 316.

benefited from the colonial propaganda of men like Richard Hakluyt, who envisioned the colony as a place where England's struggling population might find redemption through labor. Because the colonial project "occurred alongside a dramatic intensification of domestic inequality, social alienation and political unrest that accompanied the uneven cultural impact of commercial capitalism," those who would be martialled to labor in the colony were already desperate for the opportunity.²⁹ Bad harvests and economic depression, paired with a population boom in England swelled the ranks of the laboring poor and made them easy prey for the recruitment propaganda of the Virginia Company.³⁰ This propaganda was so effective, and the Virginia Company's control of information from the colony so complete, that those who saw an opportunity in Virginia not afforded them in England did not realize they were entering what Edmund Morgan has called "a charnel house."³¹

This chapter seeks to add depth to the history of labor in the early colonial experience, a literature that "is as complex, wide-ranging, and disputatious as any other subfield in the historical discipline," though "most American historians have agreed that the prevalence of servitude, in tandem with the growth of slavery, made unfreedom of

²⁹ Blair St. George, *Conversing by Signs*, 151.

³⁰ Theodore Allen also attributes the depression of the cloth and wool-making industries, enclosure, and the population growth that occurred "at a time when employment in cultivation was being reduced more rapidly than it was being increased in sheep raising and industry ... added substantially to the swelling surplus of the semi-proletarian and vagrant population," and were exacerbated in the early seventeenth century by "political and cyclical factors" and an unstable market as a result of wars on the Continent. *Invention of the White Race*, vol. 2, 11. Edmund Morgan adds a simultaneous inflation of goods and depression of wages, "followed at some distance by a rise in rents" so that "from a quarter to a half of the population lived below the level recognized at the time to constitute poverty," in *American Slavery, American Freedom*, 30.

³¹ Morgan, *American Slavery, American Freedom*, 110.

varying degrees the common denominator of colonial work until the American Revolution.”³² How that “unfreedom” came to be enshrined by law in Virginia is one aspect of this argument, and is unique in its focus on the Virginia Company.³³ The chapter details the tension between the economic motives of the Company and the general expectation for an English colony in the New World as “an expansion of England itself, but with improvements ... [and] that would remedy England’s deficiencies.”³⁴ The space between these two goals created an opportunity for a labor regime whose severity was justified by English conceptions of the “Idle” laborer, and by its colonial context that used mortality as a pretext for criminalization. By 1624, the body of the laborer was reduced to what Theodore Allen has rightly termed “chattel bond-servitude” as a result of the Company’s concerted effort to blame its own failures on the inability of the laboring body to fulfill the expectations set out for its survival and success. The existence of the chattel bond-servant in a labor regime founded on “absolute primacy of the master’s

³² John Donoghue, “Indentured Servitude in the 17th Century English Atlantic: A Brief Survey of the Literature,” *History Compass* 11 (2013): 893 – 902, 893. Salinger agrees, “It is small wonder that no common thread or theme binds studies of indentured labor since the approaches and ideologies emerge from opposite ends of a wide spectrum. Even the seemingly simple notion that servitude was a voluntary system engenders debate.” Salinger, “Labor, Markets, and Opportunity,” 337.

³³ Morgan’s excellent work on England’s colonial experience in has proved invaluable to this project and its theoretical foundations, but his work spans Hakluyt to the American Revolution. My focus on the Virginia Company specifically is intended to provide a deeper understanding of the Company period, and how the management of the Company helped to contribute to what Morgan details in *American Slavery, American Freedom*. Theodore Allen’s study of the development of chattel bond-servitude and the creation and implementation of social control by the bourgeoisie through a “buffer social control stratum” provides the other central foundation for this chapter. My work here differs from Allen only in its inclusion of the body as a central feature of the development of chattel bond-servitude. Because the law targeted and punished laborers for their failure to produce, and the body was the means of production in this period, the body should not be ignored as an important site where perceptions and control of labor were worked out in the Virginia experience. Allen, *The Invention of the White Race*, vol. 2.

³⁴ Morgan, *American Slavery, American Freedom*, 70.

capacity to profit from servant labor,” was a result of persistent mortality in the colony, since the need to survive led to the collapse of distinctions between the classes of colonial laborers.³⁵

The death rate in the colony from its start in 1607 to the end of the “starving time” in 1610 was fifty percent, and nine out of every ten emigrants to the colony died in this period.³⁶ Of the 500 people living in the colony at the beginning of winter 1609/10, only 60 remained by spring.³⁷ The colony’s failure to live up to its “heavy burden of expectation,” and the reality of mortality in the colony, necessitated the creation of “a clear set of laws ... [that] set the colonists to work with military discipline and no pretense of gentle government.”³⁸ This led to a labor regime that dispensed with the distinctions between laborers in the colony – primarily tenants who worked their own land and wage-laborers who worked for either tenants or the Company - in order to survive and “produce both their food and the exports that would make the company rich.”³⁹ Despite the harsh reality of life, death, and labor in Virginia during the “starving time,” Theodore Allen argues that “however appalling the situation was in other regards, the labor, whatever it was, conformed to the traditional English system; none of the laboring people was a chattel bond-servant.”⁴⁰ Historians find no evidence of indentured

³⁵ Donoghue, “Indentured Servitude in the 17th Century English Atlantic,” 897.

³⁶ Allen, *Invention of the White Race* vol. 2, 51.

³⁷ Morgan, *American Slavery, American Freedom*, 75.

³⁸ *Ibid.*, 79.

³⁹ Allen; Morgan, 81.

⁴⁰ Allen, *The Invention of the White Race* vol. 2, 53.

servants in the colony by 1610, but the implementation of Governor Thomas Dale's *The Lawes Divine, Morall and Martiall* in 1612 differentiated punishment for the failure to labor by economic class. John Rolfe divided laborers into several categories in 1616: "those employed only in the generall works, who are fed and clothed out of the store," and tradesmen who "do work in their professions for the colony, and maintayne themselves with food and apparel, having time permitted them to till and manure their ground." "Farmors" and their servants were "bound by covenant ... To do thirty one days service for the colony" and required to contribute to the common store, but their "covenant" was mutually binding between employer and employee similar to that of servitude in England.⁴¹ Even as late as 1622, there is no mention of indentured servants in the official catalogue of social statuses in the colony.⁴²

Both Morgan and Allen point to 1618/9 as the moment when labor relationships in the colony were transformed under the Company's new treasurer Edwin Sandys and Virginia Governor George Yeardley.⁴³ The "Sandys program" involved sending as many

⁴¹ John Rolfe, *Relation of Virginia* (London: 1616) reprinted in Brown, *First Republic*, 226-9.

⁴² *Records of the Virginia Company volume III*, 658. Historians have not yet pinpointed exactly how many people came to Virginia during the Company period, mostly because of lax record-keeping by the Company. One of the better studies of migration to the Chesapeake begins in 1631 because of the completeness of records from the Port of London (Alison Games, *Migration*). However, some general numbers should provide context. John Donoghue states that 75 – 85% of the 100,000 – 150,000 British and Irish emigrants to the Chesapeake were servants, "Indentured Servitude in the 17th Century English Atlantic," 893.; Sandra Dahlberg places total emigration to North America at 198,400 people, with 67% of those described as indentured servants, slaves, and felons, "'Doe Not Forget Me': Richard Frethorne, Indentured Servitude, and the English Poor Law of 1601," *Early American Literature* 47 (2012): 1-30.; Kenneth Morgan says of that number, 60% went to Virginia, *Slavery and Servitude in North America* (New York: New York University Press, 2001), 8.; Russell Menard finds approximately 6,000 Europeans migrated to Virginia during the Company period, but does not say how many of those migrants might be servants, "Migrants, Servants, and Slaves," 102.

⁴³ Allen, 60; Morgan "Boom" chapter.

men as possible to the colony to labor on land that had been reclaimed by the Company or on land belonging to private planters who received patents from Sandys, in order to promote a diversified economy.⁴⁴ “One way or another,” says Morgan, “[Sandys] managed within three years of becoming treasurer to get more than 3,500 persons to the colony, probably twice as many as had come in the preceding ten years.”⁴⁵ This influx of laborers included children rounded up from London streets and the destitute poor of English parishes, as well as women who would be sold as wives, and anyone else procured by merchants who were promised land in exchange for every person they shipped at their own expense.⁴⁶ These emigrants arrived in a colony woefully underprepared to receive and sustain them, and by 1623, over 3,000 of those transported had died.⁴⁷ Such high mortality in the colony was a result of the Virginia Company’s inability (or indifference) to provide basic necessities, the colonial bourgeoisie’s desire for laborers, and the Virginia labor regime that valued people only insofar as they were able to produce profits. Mortality rates for laborers “were problematic for colonial officials in England not, generally, because of the human suffering involved, but as evidence of mismanagement that reduced revenues.”⁴⁸ Mortality impeded efforts to stabilize the colony, but mortality also supported the creation of a labor regime that

⁴⁴ Allen, the “Sandys program” occurred along three lines, that “integrally and separately, from the beginning the three points of this program bore within themselves latent contradictions which quickly matured,” 60.

⁴⁵ Morgan, *American Slavery, American Freedom*, 98.

⁴⁶ This is known as the ‘headright’ privilege. Allen, *The Invention of the White Race*, vol. 2, 60, 78.

⁴⁷ Morgan, 101.

⁴⁸ Dahlberg, “‘Doe not forget me’,” 23.

would reduce men to chattel. Faced with the reality of death, John Smith mandated that everyone work in order to survive; Thomas Dale required that some men work in order to feed others; Sandys sent thousands of laborers to their deaths in order that their masters might maximize their profits. At each turn, the failures of the Company and its colony were blamed on the “lasie” or “Idle”, whose body failed to live up to expectations for its labor. The spaces left by death would have to be filled by new life, and the life of the Company and its capital was always more important than that of the laborer who supported its production.

The Ordinary

Perhaps one of the most studied contexts of capital punishment in the early modern English world is that of Tyburn Tree. From 1676 to his death in 1698, Samuel Smith served as Ordinary of Newgate to those who would meet their end at the Tyburn gallows. Standing at the crossroads of a State that controlled the bodies of its subjects through public execution and a body politic that required justification and affirmation of authority, the Ordinary’s published *Account of the Behaviour, Confession, and Last Dying Speeches of the Criminals Executed at Tyburn* interpreted the act of condemnation and execution through a spiritual lens that linked sin with crime and execution with salvation. His *Account* existed to enforce a specific narrative of authority and obedience founded on the early modern cosmological worldview that ordered itself below a divine-right monarch whose temporal judgment was justified by divine will. The condemned were participants in this legally prescribed ritual, and their performance of repentance

and remorse relied on the physical expressions of both, which the Ordinary interpreted as concrete evidence of abstract spiritual truths.

However, the Glorious Revolution of 1688 leveled a serious challenge to this worldview, and definitions of authority as well as who could claim it were called into question. In a moment of tense political transformation, the Ordinary changed his *Account* and his assessment of the condemned body in order to help fill an ideological vacuum left by the explanatory power of divine-right monarchy. In order to define and justify their authority, the traditional ruling elite had to straddle both the old world and the new, as per the contemporary meaning of “revolution” as an astronomical concept meaning to return to some better version of England and its people. The imperative for a transformative ideology regarding authority and the individual’s responsibility to it came after the Glorious Revolution of 1688, although initially no one in England wanted to acknowledge the significance of what they had done. Historians have drawn our attention to the contemporary understanding of “revolution” as it applied to historical developments that were thought to follow the same cyclical patterns observed in the heavens. J R Western notes that when “revolution” did mean change, as in the Glorious Revolution, it was of a “natural and moderate kind” and not envisioned or intended as a serious cleave from the past.⁴⁹ W.A. Speck argues that the English people, if they considered themselves revolutionaries at all, were “reluctant” ones who justified their actions in the notion that they were turning back the wheel of history to the era of their

⁴⁹ J R Western, *Monarchy and Revolution: The English State in the 1680s* (Totowa, NJ: Rowman and Littlefield, 1972).

mythical ancient constitution.⁵⁰ While the architects of the Glorious Revolution did not ultimately know what would be the long-term consequences of their actions, their rationale for throwing out King James II was to clear the way for the revival of the ancient English laws many agreed were endangered by the Catholic king's zeal for arbitrary government and French absolutism. As a consequence of this ideological firmament, perhaps the only predetermined outcome of the Glorious Revolution "was a version of the rule of law which saw the King as beneath and not above it."⁵¹ As Jonathan Scott convincingly demonstrates, England was not a nation looking forward to a time of constitutional monarchy and progressive social ideas in the second half of the seventeenth century, but was rather a society "peculiarly in the grips of the first" half of the century.⁵² The political paradox created by the ideological context of 1688, though, was that in order to return to the idyllic and mythologized past of common law, the English had undercut the very basis of legal authority when they declared the head of the body politic was no longer all-powerful or, even worse, divine. If the law had any claims to legitimacy, it would have to be through the notion of King-in-Parliament, as opposed to King-and-Parliament; or, more usefully for our purposes here, head-in-body as opposed to head-and-body.

⁵⁰ W.A. Speck, *Reluctant Revolutionaries: Englishmen and the Revolution of 1688* (Oxford: Oxford University Press, 1989).

⁵¹ Speck, *Reluctant Revolutionaries*, 165.

⁵² Jonathan Scott, *England's Troubles: Seventeenth-Century English Political Instability in European Context* (Cambridge: Cambridge University Press, 2000), 4.

While there were many opportunities to display authority, perhaps none was so frequent and singular in its purpose than the public execution. J.M. Beattie argues that Tyburn was where the “consequences of the regime of deterrence-through-terror were always more visible.”⁵³ Because of the inherent tensions in a public event intended to demonstrate the power of authority and the gathering of a crowd to whom that authority was most threatening, the public execution at Tyburn was essentially a tinderbox of simmering resentment between two opposing groups. The failure of any one actor to perform their part at Tyburn – the Ordinary in his role as interpreter, the condemned in theirs as penitents – might be the match that set the body politic aflame. Any ambiguity or confusion in the legal system or, more generally, the worldview where obedience to secular authority was analogous to that of the divine, would have to be addressed by a fundamental alteration of the *nature* of authority at the top and recreation of definitive markers of obedience in the wider body politic.⁵⁴ The Ordinary and his *Account*, as well as his congregation of the condemned, were integral to this process of definition and justification of authority and obedience after 1689.

⁵³ J.M. Beattie, *Policing and Punishment in London, 1660-1750: Urban Crime and the Limits of Terror* (Oxford: Oxford University Press, 2001), 313.

⁵⁴ The need by authorities to define their power on the body has not been adequately studied for this period in England, a historiographical gap this chapter is attempting to fill. However, this has been studied in other comparative European contexts. See Sarah E Melzer and Kathryn Norberg, eds., *From the Royal to the Republican Body: Incorporating the Political in Seventeenth- and Eighteenth-Century France* (Berkeley: University of California Press, 1998).; Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality, and Religion in Early Modern Europe* (London: Routledge, 1994).; Laura Lunger Knoppers and Joan B Landes, eds., *Monstrous Bodies/Political Monstrosities in Early Modern Europe* (Ithaca: Cornell University Press, 2004).; Lisa Silverman, *Tortured Subjects: Pain, Truth, and the Body in Early Modern France* (Chicago: University of Chicago Press, 2001).

Piracy

The long-term consequence of the Glorious Revolution was a rise of what John Brewer has called the English fiscal-military state, created in order to finance the numerous wars that would eventually culminate in the domination of the Atlantic world trade by the English.⁵⁵ The English Atlantic trade was manned by armies of sailors who, by the early eighteenth century, found that while their nation grew richer, their situation became increasingly desperate. Claiming “barbarous Usage”, “thin Commons, low Wages, and hard Labour” at the hands of merchant and Royal Navy captains, sailors responded to their disenfranchisement and abuse by mounting a devastating attack on the emerging capitalist system that has come to be known as the Golden Age of Piracy.⁵⁶ From 1714 to 1726, hundreds of men went “upon the Account” in order to enjoy a life of “Plenty and Satiety, Pleasure and ease, Liberty and Power.”⁵⁷ In so doing, these sailors attempted to reclaim the agency over their labor by stealing their bodies and their labor from the State.

Marcus Rediker’s important work on both sailors and pirates offers this case study its historiographical foundation.⁵⁸ Rediker describes the social world of pirates in the

⁵⁵ Brewer, *The Sinews of Power*.

⁵⁶ Quoted in Rediker, *Villains of All Nations*, 18, 55.

⁵⁷ *Ibid.*, 10.

⁵⁸ Marcus Rediker, “‘Under the Banner of King Death’: The Social World of Anglo-American Pirates, 1716 to 1726,” *The William and Mary Quarterly* 38 (1981): 203-227.; Rediker, *Villains of All Nations : Atlantic Pirates in the Golden Age* (Boston: Beacon Press, 2004).; Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750* (Cambridge: Cambridge University Press, 1987).; See also his work with Peter Linebaugh, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden Story of the Revolutionary Atlantic* (Boston: Beacon Press, 2000).

Golden Age as directly antithetical to every aspect of the new world order of capitalism: a world of democratic decision-making, social safety nets for comrades felled or maimed at sea, and a spirit of camaraderie that transcended social, national, and racial lines. However admirable these principles, trial records from the High Court of Admiralty during this period reveal a troubling phenomenon of sailors intentionally revoking their agency and apologizing for their rebellion in order to save their own skin. Because sailors were so adept at playing to the High Court of Admiralty's expectations of them, the Court struggled on a case-by-case basis to define what, exactly, was a pirate. Piracy was attractive because of the agency it afforded the common sailor, and the experience of agency was rooted in the physicality of its exercise. That physicality, defined by the comportment, adornment, and performance of the body, was the metric by which the High Court of Admiralty assessed guilt or innocence in cases of piracy. Once the Court determined guilt, their problems with the pirates did not end. Instead, pirates around the Atlantic world rejected the Court's authority by expressing a startling ambivalence to their condemnation. The executions of pirates were therefore intended to be especially spectacular, and in more ways than one. Because the Court was not entirely certain of culpability in every case of piracy brought before them, those cases where guilt *was* undeniable had to end in a sensational example to others. English and colonial authorities mounted a massive campaign to eradicate piracy, culminating in the frequent mass hangings of pirates around the Atlantic, as well as the ostentatious and often grotesque display of their bodies after death. Their executions nearly always occurred in large groups and in front of larger crowds than usual in the English Atlantic, making them

anomalous in contemporary executions of other English subjects. The defeat of the pirates and their social world of resistance to an emerging capitalist system by 1726 allowed the British State to continue its pursuit of profit at the expense of its people, and solidify its control over the bodies of its subjects.

Surgeons

The final case study of my dissertation focuses on the rise of the modern conception of the body, and the role that London's surgeons played in sounding the death knell of the early modern interpretation of the body in the eighteenth century. Surgeons' scientific authority relied on an understanding of the interior workings of the body that could only be attained through the study of anatomy and practice of dissection. Each required the availability of cadavers, but use of the dead for what was a relatively new and seemingly abhorrent activity meant that doctors had to mount a defense of their art and particular knowledge of the body. In order to accomplish this end, the surgeons of London aligned their interests with those of the State and secured the passage of the 1752 "Act for better preventing the horrid Crime of Murder," or the Murder Act.⁵⁹ The Murder Act was a part of the expansion of the Bloody Code described above. Its acceptance by the government as well as elites reflected a fear of visibly poor bodies and a perceived rise of crime during the transition to capitalism. In order to add "some further Terror and peculiar Mark of Infamy . . . to the Punishment of Death," the State allowed surgeons the use of criminal bodies for dissection.⁶⁰ The Murder Act extended the State's control over

⁵⁹ *An Act for better preventing the Horrid Crime of Murder*, 1752, II Geo..c XXVII.

⁶⁰ Ibid.

its subjects' bodies, including the ability to dictate what happened to bodily remains even after condemnation and execution. It also allowed surgeons the opportunity to make the body "knowable" and therefore more easily controlled, since this process entailed revoking personal agency over the body and handing it over to those who could demonstrate adequate knowledge about its inner workings.⁶¹

My study of the surgeons' ability to monopolize agency over the early modern conception of the body and transform it into something new builds on the excellent work of Ruth Richardson in her study of the 1832 Anatomy Act, which allowed for the dissection of any unclaimed body or body of a person who died in State welfare.⁶² Following the example of Richardson in her ability to show how nineteenth-century medical practitioners, Enlightenment thinkers, and government reformers joined forces to consolidate power over bodies, this chapter demonstrates how this could not have been possible without the 1752 Murder Act. With the help of the State, surgeons successfully claimed the corpses of those deemed unworthy of life and nearly guaranteed the transfer of agency over the body, alive or dead, from individual to State. By the mid-eighteenth century, medical knowledge about the body began to alter the traditional understanding of the body and its place in the universe. This was so because of surgeons' "better" understanding of the inner workings of the body itself, gleaned from operations on and dissection of bodies taken from the poorest sections of society.⁶³ Surgeons' experience

⁶¹ Michel Foucault, *The Birth of the Clinic: An Archaeology of Medical Perception* (New York: Pantheon, 1973).

⁶² Ruth Richardson, *Death, Dissection and the Destitute* (Chicago: University of Chicago Press, 1987).

⁶³ For American examples see Seth Rockman, *Scraping By: Wage Labor, Slavery, and Survival in Early Baltimore* (Baltimore: Johns Hopkins University Press, 2009); Ruth Wallis Herndon, *Unwelcomed*

with the material body grounded their intellectual theories about reason and its relationship with the corporeal, and successfully altered the physical body's relationship to the universe and authority. As the private nature of the body became a scientific affair on the public dissection tables of British surgeons, the “ignorant” people who understood their body as inextricable from their identity were forcibly pulled into a “modern” world by men of knowledge whose lofty goals were intangible at best, and supported by butchery at worst.⁶⁴

This chapter also operates within the historical context of what Jonathan Sawday has convincingly argued was a “culture of dissection” that required a systematic dismemberment of the physical body in order to understand, diagnose, and remake the body politic into a healthier, more perfect whole.⁶⁵ Peter Linebaugh's brief analysis of “The Tyburn Riot Against the Surgeons” argues that medical professionals and the practice of dissection exacerbated a simmering class conflict between state control over the bodies of its subjects supported by elite conceptions of poor bodies, and the right of ordinary people to maintain their traditional beliefs.⁶⁶ This chapter also proposes that the

Americans: Living on the Margin in Early New England (Philadelphia: University of Pennsylvania Press, 2001) illustrates this trend for the Massachusetts Bay Colony; Michael Sappol, *A Traffic of Dead Bodies: Anatomy and Embodied Social Identity in Nineteenth-Century America* (Princeton: Princeton University Press, 2002) highlights that similar proportions of lower-class and marginalized Americans were used for dissection as in England, and this fact contributed to a new dimension of class conflict and differentiation.

⁶⁴ See Roy Porter, *Bodies Politic: Disease, Death and Doctors in Britain, 1650-1900* (Ithaca: Cornell University Press, 2001) and Christopher Lawrence and Steven Shapin, eds., *Science Incarnate: Historical Embodiments of Natural Knowledge* (Chicago: University of Chicago Press, 1998) especially Christopher Lawrence's essay “Medical Minds, Surgical Bodies: Corporeality and the Doctors,” 156-201.

⁶⁵ Jonathan Sawday, *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture* (London: Routledge, 1995), ix.

⁶⁶ Peter Linebaugh, “The Tyburn Riot Against the Surgeons,” in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, eds. Douglas Hay et al., 65-117 (New York: Pantheon Books, 1975).

dissection of the dead criminal body certainly represented “some Further Terror” to the larger body politic, though not in the punitive manner in which the State intended. Instead, the reduction of one member of that body politic to fragmented parts challenged the traditional relationships between the individual and the body politic, the world, and the cosmos. The crowd at Tyburn who “stole” the bodies of their comrades from the surgeons or beat the surgeons’ assistants who waited to collect their charges were obviously not privy to the “learned” debates over what, exactly, constituted the material body. But they were members of a community that was under attack by a medical discourse and practice that refashioned a cosmological order which, though tenuous, had at least made sense.

Conclusion

By the time of the surgeons’ triumph in 1752, the agency that the laboring poor once exercised over their bodies was awaiting burial in the graveyards of capitalism. Criminalized for idleness, denied access to their soul, destroyed for wanting more than what the ruling elites thought they deserved, and torn apart under the surgeon’s knife, the laboring poor stood poised for their birth as the permanent servile underclass that was and remains useful only insofar as their continued subjection sustains the narrative of righteous progress inherent in capitalism. While “the division between the permitted and the forbidden has preserved a certain constancy from one century to another,” the perception of “crime” and “criminal” has significantly altered since English colonists first landed at Jamestown.⁶⁷ The maintenance of the social, political, and economic order has

⁶⁷ Foucault, *Discipline and Punish*, 17.

come increasingly to rely on the constant redefinition and reaffirmation of legality and morality, and punishment continues to serve a “complex social function” in this process. The following chapters detail the monumental struggle to define bodies in times of transformation – of wrangling the physical to service the abstract, of catching, molding, and fitting amorphous ideas about the body into a clearly defined and more manageable space – and doing so by identifying and destroying the criminal body. This is not an uplifting story, but then again, tales of violence and appropriation against the downtrodden and disenfranchised do not often lend themselves to sunshine and rainbows. It was necessary to let the people in these pages speak for themselves, in hopes that this project might restore some equilibrium in the universe.

Remember, this began with a warning.

CHAPTER ONE

“WHO THROUGH MORTALITY HAD FAILED”:

CRIMINALIZATION AND COMMODIFICATION IN VIRGINIA

...with weeping teares I beg of you to helpe me. O that you did see my daylie and hourelie sighes, grones, and teares, and thumpes that I afford mine owne brest, and rue and Curse the time of my birth with holy Job. I thought no head had beene able to hold so much water as hath and doth dailie flow from mine eyes.

- Richard Frethorne letter to his mother and father, 1623.

It is difficult to get a man to understand something, when his salary depends upon his not understanding it.

- Upton Sinclair, *I, Candidate for Governor: And How I Got Licked*, 1935.

Introduction: The Reflections of John Smith

Reflecting on the disappointing first twenty years of the English colonial experiment in Virginia, John Smith concluded that blame for Virginia's failure rested on two groups. First, the “pride, covetousnesse, extortion and oppression in a few that ingrosses all” led to the creation and maintenance of a charnel house for English colonists in the New World.¹ These sins belonged to the Virginia Company, a joint-stock company chartered by King James I in 1606 to undertake the financing, settling, and governing of England's first Atlantic colony. Early supporters of the colonial venture in the late sixteenth century promised Englishmen a “Country to pillage as the Romans found,” but the earliest adventurers, including Smith, found Virginia far more difficult to settle.

¹ John Smith, *Generall Historie of Virginia*, in *Narratives of Early Virginia, 1606-1625*, ed. Lyon Gardiner Tyler (New York: Charles Scribner, 1930), 402.

Smith warned his readers and would-be travelers that “all you expect from thence must be by labour.”² Thus those in the second group burdened with the responsibility of failure were those who did not expend the required effort and devote their bodies, and often their lives, to the endeavor. “To rectify a commonwealth with debauched people is impossible,” he argued, “and no wise man would throw himself into such a society.”³ Smith weaved a tangled web of blame, but he can hardly be held responsible for his confusion. What began in the late sixteenth century as a noble vision of an English commonwealth that spanned the Atlantic, its entire population buoyed and redeemed through the success and purity of Virginia, had by 1624 become a horrifying tale of death and enslavement of English subjects in the New World. There was enough blame to go around, but the idea that labor was necessary for commercial success and failure stemmed from an absence of adequate labor, was a creation of the Virginia Company. The deliberate crafting and deployment of this narrative was necessitated by the Company’s myopic focus on profit, and justified the exploitation and commodification of the English poor in Virginia.

It is important not to diminish the fact that England’s first endeavor into the New World was immediately put into the hands of a newly-formed joint-stock company full of men who had never been to Virginia and who, considering the decisions made over the course of the Virginia Company’s existence, cared very little for the people who did make the journey. The Company’s primary interest was profit, pure and simple, from the

² Ibid., 404.

³ Ibid., 403.

very beginning of its control over the colony in 1606. As a result, the Virginia Company built a labor regime that was not only fundamentally different from the English model of labor relationships, but necessitated the creation of a system of chattel bond-servitude which eventually gave way to the system of racialized slavery that defined the Anglo-American labor regime by the close of the seventeenth century.⁴ By its dissolution in 1624, the Virginia Company had successfully provided the foundation for the perception that the laborer was a disposable commodity whose worth was proved by his ability to produce profits in Virginia. This amounted to the reduction of the laboring body to a commodity: defined, controlled, and punished according to that specific body's ability to succeed in labor, or fail. The process of reducing the laborer to a commodity was supported by a succession of laws implemented and adapted in Virginia that criminalized the behaviors of the poor in an attempt to more fully control and direct their labor toward maximum profits for the Company. These laws were based on the idea that the opportunity to labor in Virginia was a benevolent gift from the ruling class, granted to

⁴ This argument follows Theodore Allen in arguing that the "imposition of chattel bondage cannot be regarded as an unreflecting adaptation of English precedents," since servitude under the Virginia Company operated outside of the traditional legal constraints of the master-servant relationship, without "the legal presumption of liberty," *The Invention of the White Race: Racial Oppression and Social Control*, vol. 2 (New York: Verso, 1997), 103.; Edmund Morgan also states that "serious differences made servitude in Virginia more onerous than servitude in Virginia," due to lengths of service and the purpose of servitude in Virginia as opposed to the goals of apprenticeship. The need for labor in the colony, as well as the terms of service stipulated in servants' contracts, provided "the more reason for a master to assert his authority in order to get what he considered a full quota of work from his servants," *American Slavery, American Freedom: The Ordeal of Colonial Virginia* (New York: W.W. Norton, 1975), 126.; Robert Steinfeld argues that indentured servitude was a legal class unique to the colony, but this argument differs from Steinfeld in its presumption that servant labor was "unfree", *The Invention of Free Labor: The Employment Relation in English and American Law and Culture, 1350 – 1870* (Chapel Hill: University of North Carolina Press, 1991).; Sharon Vineberg Salinger correctly observes that there was a distinct difference between apprenticeship and indentured servitude in that the former implied education in a trade, while the latter existed strictly as a labor institution, "Labor, Markets, and Opportunity: Indentured Servitude in Early America," *Labor History* 38 (1997): 311 – 338.

England's desperate poor in order to lift them up by inculcating habits of industry. However, the Virginia Company's iteration of this perception relied on "reassert[ing] class discipline through labor and terror," in order to exact profits from the colony. This discipline granted the Company license to ignore the plight of laborers in the colony and punish them for seeking means to alleviate their own suffering.⁵ Relying on an entrenched English tradition that labor was a responsibility as well as a redemptive cure "from the sin of idleness with work as the specified agent of salvation," the Virginia Company created a straw man of the idle laborer in Virginia on whom they blamed their failure.⁶

This chapter will analyze the Company's management of Virginia and the eventual commodification of people under a labor regime distinct from its English counterpart, and formed in antithesis to English common law and the tradition of the "freeborn Englishman". The argument proceeds under three distinct stages: imagination, creation, and consolidation. The first section, *imagination*, explores the ways in which the English envisioned Virginia before attempting to colonize it. In this stage, the problem presented by English bodies was of crucial concern for justifying the English colonial experiment in Virginia. For colonial supporters such as Richard Hakluyt, the process of colonization was a noble one. England had too many bodies, and poverty and idleness as a result of the absence of opportunities to labor threatened to undermine the

⁵ Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000), 30.

⁶ Sandra L Dahlberg, "Doe Not Forget Me': Richard Frethorne, Indentured Servitude, and the English Poor Law of 1601," *Early American Literature* 47 (2012), 7-8.

commonwealth. Since Virginia offered the promise of opportunity and employment, as well as abundant space, the colony would lift up the poor and idle and turn them into worthwhile subjects across the sea. At the same time, England would prosper as a result of being disburdened of its “superfluous” subjects.⁷ Years before the first ship full of potential colonists departed an English port for Virginia, the perception of the English poor ranged across a spectrum from the unworthy to the worthy.⁸ Even the unworthy poor in this early stage could be redeemed in Virginia by the sheer fact of their leaving the confines of England and devoting their labors in Virginia to the commonwealth. The imagination of colonial supporters was vast and inclusive in this regard, as it believed all English bodies could succeed in the healthful climate of Virginia, and that their inevitable success would similarly benefit those who remained in England. The principles of colonization were therefore guided by the dream of a more perfect commonwealth consisting of honest laborers working for honor and redemption. Profits were an inevitable consequence of these noble principles, not the driving force for their implementation in the New World. This would change. Across the next several decades, the decisions of colonial administrators would be informed by the ability of the laborer to

⁷ John Brereton, *A briefe and true relation of the discouerie of the north part of Virginia in 1602* (London: 1602), 19.

⁸ Dahlberg argues that the English Poor Law of 1601 was a display of “administrative benevolence” whose real purpose “was not charity. It was profit,” and reflected “a paradigmatic shift in perceptions of – and approaches toward – the poor, whose poverty was increasingly associated with criminality, as well as voluntary vagrancy and idleness.” The Virginia Company had a vested interest in maintaining the narrative of “administrative benevolence” and deployed this rationale with zeal in their publications. Dahlberg, “‘Doe Not Forget Me’,” 10, 4. Before the English Poor Law of 1601, the 1597 statutes against vagrancy reflected this shift, as they punished those who took to the roads after the bad harvests of the 1580s and 1590s. *Statutes of the Realm*, 39 Eliz. c. 4, clause III. See also John Walter, “The Social Economy of Dearth in Early Modern England,” in *Famine, Disease and the Social Order in Early Modern Society*, ed. John Walter and Roger Schofield, 75 – 128 (Cambridge: Cambridge University Press, 1991) and Paul Slack, “Vagrants and Vagrancy in England, 1598 – 1664,” *Economic History Review* 27 (1974): 360 – 379.

produce profits. The glory of the commonwealth was of secondary concern, and if glory came at all, it would be as a consequence of those profits.

The second phase is that of *creation*. Overall, this phase includes the initial steps taken toward realizing a colony in the New World as well as the practical problems in so doing. Specifically, this phase offered a different vision of labor and idleness, one that was driven by the single-minded pursuit of profits under the management of the Virginia Company. Because the Virginia Company conceptualized the colony from its very beginning as a place to make money, they were interested in laborers only insofar as their labor meant profit, and were therefore far less concerned with the colony's ability to redeem the poor English laborer through work. This phase begins with the charter issued to the Virginia Company in 1606, granting them "licence to make habitacion, plantacion and to deduce a colonie of sondrie of our people into that parte of America commonly called Virginia."⁹ The issues presented by bodies and labor in this stage were manifold. How would bodies be transported to the colony, and what opportunities for labor awaited them once there? How would they be provided for once there, practically and politically? How might the government best marshal their labor for Company profits, while encouraging self-maintenance and industry for personal growth? After it immediately became clear that the Virginia of imagination was not the same as that of reality, the Virginia Company had to reevaluate and answer for its failure. To this end, the Company attempted to define the line between idle and able colonists through propaganda disseminated on its side of the Atlantic. In Virginia, the Company created and enforced a

⁹ King James I, charter to the Virginia Company, 10 April 1606.
http://avalon.law.yale.edu/17th_century/va01.asp

series of laws that constrained and punished laborers for the failures of their bodies.

These laws used the threat of punishment and death in order to more strictly order the performance of labor for the explicit purpose of maximizing profits for the Company.

The first stage of creation (1607 – 1612/3) was heavily influenced by the reports, accounts, and encouragements offered by men like Hakluyt in the imagination phase, but struggled to maintain that optimism when faced with the practical issues of sending men to the colony to settle, and then keeping them alive long enough to turn a profit. These particular issues, of mortality and survival, were never satisfactorily addressed by the Company because of the damage such an admission of failure would cause to its reputation and to its pocketbook. The failures of Virginia were blamed instead on the inadequacies and inability of a specific type of person, rather than on the Company's managerial style. In private, the Company cared very little who it sent to the colony, so long as enough laborers were there to ensure a profit. The second stage (1612-1619) is the transition to commodifying labor, and the Company's reduction of the laborer to a profit-making machine. In this stage, the Company publicly justified its disastrous management of the colony by returning to the noble ends of the project at its inception. Privately, they sent more men with less provisions into what they already knew was a slaughterhouse, in order to collect as much profits as was possible at the least possible expense for the Company. What happened over the course of this entire phase, then, was the disintegration of the noble goals envisioned in the imagination phase as the Company gradually reduced laborers to a mere commodity, whose lives and deaths were accounted for only by the pounds and shillings gained or lost.

Consolidation, the final phase, begins in 1619 but solidifies in 1621, when condemnation of the Virginia Company's mismanagement of the colony reached critical mass. The harshest critics wielded emotional and convincing accounts of mortality caused by the unconscionable greed of the Company and its governors in Virginia. Even members of the Company hurled accusations at each other of reducing English subjects to slaves who died or barely survived under a harsh labor regime, of governors and colonial officials who withheld provisions from the general population in order to feed themselves, and of masters who abused and sold their servants to make a larger profit. Censures of the Virginia Company in this period were the closest thing to the truth of life and death in the colony that had made their way to the public since the Company's founding in 1606 and its subsequent propaganda campaign, and the stories they told were truly horrendous. When James I finally dissolved the Company in 1624, he justified his decision by pointing to the mistreatment of his own English subjects, a practice antithetical to the common weal. But this was only one minor justification. The Virginia Company had failed in the one thing it was intended to do – make money for investors, for the King, and for England. Ultimately, that failure was understood as one that stemmed in part from the Company's inability to maintain, control, and deploy their labor force. The criticisms leveled against the Company for its treatment of English subjects in the colony were shallow appeals to the heart and soul of England, and for that once noble vision offered by Hakluyt. A royal colony, it was argued, would better manage Virginia and treat its people more justly. That was not the case, and why the period 1621 through the end of the Virginia Company in 1624 can be thought of as a consolidation of the

policies that reduced the laborer to a commodity in his new iteration as a chattel bond-servant. After 1624 this basic conceptualization of labor remained, and was the underlying consideration for the sending of thousands more English men, women, and children by hook or crook to the colony. The idea implanted by the Virginia Company and enshrined in law - that labor was cheap, and certain people disposable - would continue to constrain and punish English subjects until another labor force replaced their own.¹⁰

Imagination

In his 1584 *Discourse of Western Planting*, Hakluyt collected the narratives of various travelers to the land that would become Virginia, all of whom in his estimation “viewed the contrie [as] the fairest, frutefullest, and pleasantest of all the worlde.”¹¹ Perfectly situated at a latitude of 34 degrees, Virginia possessed “goodd and holesome ayre, temperate, betwene hote and colde; no vehement winds.”¹² Hakluyt grounded his descriptions of Virginia in explicit comparisons to England – its climate, commodities,

¹⁰ The stages presented here and their periodization is based on my interpretation of the Virginia Company records as those records iterate a change in the perception of laborers in the colony, and how those perceptions were influenced by mortality and enshrined in law. My periodization thus differs very slightly from that of Allen in *The Invention of the White Race*, vol. 2, 49, who is concerned with the creation of a buffer social control stratum as a means to enforce social control in lieu of addressing issues with labor relationships in the colonial experience. Allen points to three phases: the first begins in 1607 and ends in 1610 after the ‘starving time’; the second (1610 – 1618) characterized by an expanded territorial grant to the Company, the establishment of a special royal council for the Company, beginning of tobacco cultivation and export, and the creation of a local Colony Council as a legislative body; the third phase (1619 – 1624), the Sandys program and installation of Yeardley, characterized by the establishment of a General Assembly in Virginia, patents granted to capitalist plantation owners, the native massacre in 1622, and the dissolution of the Company in 1624. However, both Allen and Edmund Morgan point to 1618/1619 as the moment when labor relationships in the colony were transformed as a result of the Sandys program and Governor Yeardley assuming the post of Governor.

¹¹ Richard Hakluyt, *A Discourse of Western Planting* (London: 1584), Chapter III.

¹² Ibid.

foodstuffs, and geography – as a way to entrench in Englishmen’s minds the ease of realizing England’s colonial dream. In describing and highlighting the specific environmental features of Virginia, Hakluyt attempted to assuage any fear or doubt that English bodies might struggle in an unfamiliar land. The voyage to Virginia was “easie and shorte” if taken from the south and west coasts of Ireland, “not to passe throughe the frozen seas, but in a temperate climate unto a contrie muche like to those partes of Gascoigne and Guyen, where heretofore our nation for a longe tyme have inhabited.”¹³ Most importantly, Virginia was by all accounts “in truthe more agreable to our natures ... than Nova Hispania.”¹⁴ Let the Spanish stay in the south, for Englishmen would not excel there in any case because of their unique (and superior) constitutions, formed and hardened in the particular environs of England. Like Protestantism, or notions of the free-born Englishman, the English body was borne of a specific place and could therefore only excel in a similar colonial space that ensured survival and success.

Problems arose almost immediately after Hakluyt’s efforts in 1584, and threatened to discourage future attempts towards colonization. Reports from Roanoke, the first attempt at a colony in Virginia under Sir Walter Raleigh and Sir Richard Grenville, were bleak, though not yet catastrophic. “Diuers and variable reportes with some slaunderous and shamefull speeches” of Virginia circulated in England after yearly voyages between 1584 and 1587 and prompted Thomas Hariot to publish *A briefe and*

¹³ Ibid., Chapter XII.

¹⁴ Ibid., Chapter XV.

true report of the new found land of Virginia in 1588 in response.¹⁵ Hariot played an integral role in Raleigh's failed 1585 voyage to settle a colony at Roanoke, and his explorations of Virginia's coast and surrounding regions lent him the necessary credibility to defend both the expedition and the colonial experiment in Virginia. Hariot deployed the same tactics as Hakluyt in his comparisons of Virginia to England, assuring his readers that their inherent English skills need not change in the New World. The native Americans caught fish "after the maner as Irishmen cast dartes"; the country abounded with willow reeds "for the making of weares and weeles to take fish after the English manner"; and clay and lime were "both excellent good, and plentie" to make bricks "after the maner as they vse in the Iles of Tenet and Shepy, and also in diuers other places of England."¹⁶ Despite his expedition's failure to plant a successful colony in Virginia, Hariot insisted that the land itself was better than England in almost every way. For less effort and a larger return than in England, "that countrey corne is there to be preferred before ours."¹⁷ Virginia's tobacco "purgeth superfluous steame & other grosse humors, openeth all the pores & passages of the body," the use of which rendered native bodies "notably preserued in health" and shielded them from the "many greeuous diseases wherewithall wee in England are oftentimes afflicted."¹⁸ In his travels through

¹⁵ Thomas Hariot, *A briefe and true report of the new found land of Virginia: of the commodities there found and to be raysed ... Directed to the Aduenturers, Fauoured, and of the action for the inhabiting and planting there* (London: 1588)

¹⁶ *Ibid.*, 20, 23, 24.

¹⁷ *Ibid.*, 15.

¹⁸ *Ibid.*, 16.

Virginia, Hariot found the soil better than that in England, the trees “greater”, the grass “as good as euer we saw any in England,” and more fruits and beasts than an Englishman could fathom.¹⁹ Hariot also allowed for a period of acclimation to the strangeness of Virginia’s climate and foodstuffs, which were “very straunge vnto vs” and “might haue bene thought to haue altered our temperatures in such sort as to haue brought vs into some greeuous and dangerous diseases.”²⁰ Yet with only twenty days of victuals from England, some want of clothing, a harsh Virginian winter, and no stable lodging to speak of, Hariot’s company of 108 Englishmen survived a full year in that new land and suffered only four casualties. But, as Hariot was sure to point out, “all foure ... were feeble, weake, and sickly persons before euer they came thither.”²¹ John Brereton, member of a marginally more successful 1602 voyage to Virginia wrote in his *A briefe and true relation of the discoerie of the north part of Virginia*, that “For the agreeing of this Climat with us,” his company left healthier, stronger, and “much fatter ... than when we went out of England.”²² The English body would do better than survive in Virginia. In fact, it would thrive. Virginia was

temperat and well agreeing with our constitution, which though the same do lie betweene 40 and 44 degrees of latitude, under the Paralels of Italie and France, yet are not they so hot...which mitigation of his heat, we take for a benefit to us that intend to there; because under the Climat of 40 Degrees, the same would be too vehement els for our bodies to endure.²³

¹⁹ This included lions. *Ibid.*, 31.

²⁰ *Ibid.*

²¹ *Ibid.*, 32.

²² Brereton, *A briefe and true relation*, 11.

²³ *Ibid.*, 15.

The voyage was short, “apt for most winds ... to be performed commonly in 30 or 35 daies.”²⁴ Surely Englishmen could survive so easy a voyage. Once in Virginia, they would be supported by soil praised for its “fertilitie and sweetnesse,” which “bringeth forth without industrie,” peas, roses, grapes, hemp, fruits, herbs, and flowers.²⁵ Those commodities that required labor were easy, abundant, and “of good importance and value.”²⁶

In addition to the agreeable climate of Virginia, the land itself afforded an unimaginable (and often fantastical) array of commodities that “will yelde unto us all the commodities of Europe, Affrica and Asia ... and supplye the wantes of all our decayed trades.”²⁷ Wood, hides, fruit, olives, silk, flax, hemp, iron, glass, and almost assuredly gold and other precious metals were there in Virginia for the taking. Hakluyt and others envisioned the abundance of Virginia as a means to overtake all other empires. England could claim exclusive rights to the trade that would inevitably flow across the Atlantic, as easily as the rivers in Virginia offered up milk and honey for the stout and hearty Englishmen who would settle there. Those Virginian commodities also promised to decrease England’s reliance on other nations for imports.²⁸ Both Hakluyt and Hariot

²⁴ Ibid., 15-16.

²⁵ Ibid., 16

²⁶ Ibid.

²⁷ Hakluyt, *Discourse on Western Planting*, Chapter III.

²⁸ Brereton argued “It may also seeme a matter of great consequence for the good and securitie of England,” that Virginia offered the types of commodities hitherto imported by foreign nations into England and “which shall be made within those her Majesties owne dominions, by her owne subjects, and brought hither thorow the Ocean, free from restraint of any other prince,” *A briefe and true relation*, 20-21.; Hakluyt, *Discourse on Western Planting*, Chapter III “That this westerne voyadge will yelde unto us all the

understood that few would venture their money and their lives for the purely noble ends of English glory and Protestant supremacy by having more souls in heaven than Catholic Spain. Effusive praise for the commodities of Virginia and the unbelievable profits to be had from them therefore took up as much space in their treatises as anything else. And while Hakluyt especially dwelt more in the realm of dreams than reality, he was realistic when it came to detailing how, exactly, these profits could be procured with relative ease. People were needed, and lots of them, a practical problem that led him to present the dual vision of peopling and planting.

Hakluyt devoted a substantial amount of time to the most important aspect of colonization, “That this enterprise will be for the manifold employment of numbers of idle men.”²⁹ Both Spain and Portugal had rid their countries of the idle and criminal elements as a result of their own colonization efforts, and provided otherwise dissolute and hopeless persons with honest work, so much so “they rather want men than means to employ them.”³⁰ England suffered under the twin blessings of long peace and increasing health of its populace, which in turn led to a population boom that swelled the streets and highways with the idle and destitute.³¹ These people became restless, “either

commodities of Europe, Affrica and Asia, as far as wee were wonte to travell, and supplye the wantes of all our decayed trades.”

²⁹ Hakluyt, *Discourse on Western Planting*, Chapter IV.

³⁰ Ibid.

³¹ E.A. Wrigley and Roger Schofield, *The Population History of England, 1541 – 1871: A Reconstruction* (Cambridge: Harvard University Press, 1981) found a rapidly growing population through the sixteenth and early-seventeenth century. Paul Slack’s study of vagrancy in England records approximately 3,000 vagrants registered and punished in English counties from the late sixteenth to seventeenth century, but states that these numbers “were only the tip of the iceberg,” in “Vagrants and Vagrancy in England, 1598 – 1664,” 361.

mutinous and seeke alteration in the state, or at leaste very burdensome to the commonwealthe, and often fall to pilferinge and thevinge and other lewdnes, whereby all the prisons of the lande are daily pestred and stuffed full of them, where either they pitifully pyne awaye, or els at lengthe are miserably hanged.”³² Hakluyt maintained that the problem was one of employment, people “havinge no way to be sett on worke.”³³ In his utopian vision of Virginia, the opportunities for work might actually exceed the amount of men who could be sent. Trees needed felling and there was wood to be cut and made into masts and boards. Pines needed burning to make into pitch and tar and there was hemp for cordage. Mines only needed men to offer up their silver, gold, copper, lead, and iron, while the abundance of mulberry trees promised silk if only there were laborers to maintain the worms. Cotton overran wild fields waiting to be picked, made into cloth, and dyed. The rivers and seas were full of fish and whales that could be killed, dried, salted, and sent back to England or provide a healthy diet for Englishmen in the New World.³⁴ Those who, because of their age or ability, could not make the voyage “and now are chardgeable to the realme at home ... shal be made profitable members, by employinge them in England in makinge of a thousande triflinge thinges.”³⁵ Brereton, too, envisioned a Virginia populated with “our superfluous people” who England could not support.³⁶ Commodities from Virginia were “profitable for the State of England

³² Hakluyt, *Discourse on Western Planting*, Chapter IV.

³³ Ibid.

³⁴ Ibid.

³⁵ Ibid.

³⁶ Brereton, *A briefe and true relation*, 19.

specially ... as for the imploiment also of our people and ships; the want whereof, doth decay our townes and ports of England, and causeth the realme to swarme full with poore and idle people.”³⁷ Brereton estimated only a little more than 10,000 men, women, and children would be needed to make a quick profit in Virginia, “the charges whereof shall be defrayed by our first returne of fish and some commodities.”³⁸

All of the commodities promised to England came to nothing if there were not people to collect, grow, harvest, or mine them. People and profits were inextricably connected in Hakluyt’s mind and those who would come after him. But Hakluyt perhaps privileged the benefits to Englishmen and women, to their souls and livelihoods, over the economic benefits that would accrue back to England.³⁹ Once settled in Virginia, the destitute and poor of England “shalbe kepte from idlenes and be made able by their owne honest and easie labour to finde themselves, withoute surchardginge others,” to the great advancement of themselves and so, the commonwealth.⁴⁰ Hakluyt’s was a beautiful vision of an industrious England that spanned the Atlantic, where the ills and vices of an entrenched and cramped society might be eradicated in the wide-open expanse of a Virginia that was alike in form but not in kind.⁴¹ Harriot maintained Hakluyt’s optimism

³⁷ Ibid., 17.

³⁸ Ibid., 19.

³⁹ I agree with Morgan when he says that “Hakluyt was a compassionate man,” *American Slavery, American Freedom*, 31.

⁴⁰ Hakluyt, *Discourse on Western Planting*, Chapter IV.

⁴¹ Potential investors were less optimistic about the population of English subjects who would be redeemed by Virginia. Sir Walter Cope wrote to the Earl of Salisbury, one of the Virginia Company’s most important backers and members, in March 1605/6: “the infinite numbers of cashiered captains and soldiers, of poor artizans that would and cannot work, and of idle vagrants that may and will not work, whose increase threatens the State, is affectionately bent to the plantation of Virginia,” *Calendar of the Manuscripts of the*

that the opportunities possible in Virginia far outweighed the serious risks of settling that country, but he was more realistic as to the specific types of people needed to ensure the success and profits of a colony there. In Hariot's estimation, the peopling of the country with the beggars of England, or "feeble, weake, and sickly persons," would only impede the accumulation of profits. Rather, "men of skill [are] knowne to be necessarie" if "there will rise as greate profite in time to the Virginian, as thereof doth now to the Persians, Turkes, Italians and Spaniards."⁴² Corn could sustain a man for one year with "lesse then foure and twentie houres labour" so long as it was "prepare[d] and husband[ed]" by able hands, and wine could be grown that would surpass the French product if the grapes "are planted and husbanded as they ought."⁴³ Virginia might yield lemons and oranges, too, if given time and a skilled laborer. And "considering there the small charge for the labour and feeding of men," there was no reason these commodities would fail, so long as the right types of men were sent.⁴⁴

Hakluyt's and Brereton's vision spoke to everyone in England, "husbandmen, seamen, marchauntes, souldiers, capitaines, phisitions, lawyers, devines, cosmographers, hidrographers, astronomers, historiographers," and even "olde folkes, lame persons,

most Honorable the Marquis of Salisbury, Vol. 18: 1606, entry 143, 84, Calendar of State Papers. Others saw Virginia as a dumping ground for less desirable populations such as Catholics, and asked that the King "will license 300 Catholic households at their own costs to depart this land to inhabit Virginia," 19 June 1606, William Udall to the Earl of Salisbury *Calendar of the Manuscripts of the most honorable the Marquis of Salisbury Vol. 18 entry 318, 173.*

⁴² Hariot, *A briefe and true report*, 8.

⁴³ *Ibid.*, 15.

⁴⁴ *Ibid.*, 10.

women, and young children.”⁴⁵ Their dream was optimistic and inclusive, while Hariot’s was cautious and arguably more practical. What all three had in common, though, was the belief that Virginia offered nearly limitless opportunities that would undoubtedly lead to the benefit of England. They also articulated a conceptualization of labor as the most potent remedy for the social ills they saw around them.

Creation

There was not much quibbling about the necessity of establishing an overseas English colony, or that the English should plant in Virginia. It was the practical creation of the colony that would prove troublesome.⁴⁶ Instead of establishing a royal colony as the Spanish had done in the Americas, control over the colony was granted to a joint-stock company.⁴⁷ The Virginia Company was chartered by King James I in April 1606 for the purposes of financing and administering the colonial venture. The royal charter granted the Virginia Company exclusive rights over every aspect of the colony including the transportation of English people who would develop those commodities described by men like Hakluyt and others who had journeyed to the New World. From the beginning, the Virginia Company’s primary goal was the accumulation of profits, evidenced in the charter by the amount of space devoted to commodities and trade than to the people who

⁴⁵ Hakluyt, *Discourse on Western Planting*, Chapter IV.

⁴⁶ As Morgan says, “The men, then, who sailed up the James River in the spring of 1607 bore a heavy burden of expectation. They were to create a biracial society that would remedy England’s deficiencies... It was a formula for disaster,” *American Slavery, American Freedom*, 70.

⁴⁷ Allen argues that this distinguished the English colonial experiment from other European powers’, and led England to rely on their own subjects as “basic plantation workers,” *The Invention of the White Race* vol. 2, 11-12.

would secure them. The Company was in charge of procuring, transporting, and settling potential colonists. This included sufficiently provisioning voyages and the colony based on the reports of previous expeditions. In hindsight, these initial reports were woefully inaccurate and led to serious problems in the colony from its outset. The Company was also granted the prerogative of drafting and implementing laws to govern the colony, in accordance with the laws governing England, at least as far as was possible. However, the law, like any other English transplant into the New World, would need to adapt or die in an unfamiliar context. The ways in which the Company adapted its laws, and deviated from those in England, were dictated first and foremost by the investors' desire to reinvent the English labor experience in a colonial context to maximize profits. The law's primary purpose, then, was to control and direct labor and those who performed it. Over the course of this period, the legal structure of Virginia eventually came to explicitly criminalize the laborer for his failure to produce, and did so by categorizing the laborer as idle. This in turn justified abuse and exploitation of the laborer, and did nothing to address the systemic failures that led to the body's inability to perform labor including starvation, exposure, and a severe labor regime that worked a man to death.

The period from the first landing in Jamestown in 1607 to 1612 has become known as the "starving time".⁴⁸ Mortality forced an immediate recognition that the dream of Virginia might not match the reality on the ground. In one of the first voyages financed by the Virginia Company, nineteen men died, "Destroyed with cruell diseases, as

⁴⁸ Morgan, *American Slavery, American Freedom*, 75.; Allen, *The Invention of the White Race* vol. 2, 49.

Swellings, Flixes, Burning Fevers ... of mere famine.”⁴⁹ For five months, George Percy and his expeditionary force lived in “this miserable distresse,” existing on “but a small Can of Barlie sod in water, to five men a day” and water “full of slime and filth.”⁵⁰ This was a far cry from the land described by early colonial supporters, bursting with food for the taking, and clean rivers stuffed full of fish. “There were never Englishmen left in a forreigne Countrey in such miserie as wee were in this new discovered Virginia,” Percy wrote on his return home,

If there were any conscience in men, it would make their harts to bleede to heare the pittiful murmurings and out-cries of our sick men without reliefe, every night and day ... some departing out of the world, many times three or foure a night; in the morning, their bodies trailed out of their Cabines like Dogges to be buried.⁵¹

Percy’s observations were not likely to attract investors or encourage would-be settlers to risk money and their lives for an endeavor that killed nineteen hearty soldiers in a five-month period. The Company’s response was to draft its first legislation. The secretary of the Virginia Company would henceforth be sworn to an oath of secrecy in all matters regarding the dealings of the Company, and especially to reports coming from Virginia. “You shall keepe secret all matter Comitted & reuealed vnto you,” read the 1607 oath administered to the Company’s second secretary.⁵² The secretary was also required to

⁴⁹ George Percy, *The Observations of George Percy in Narratives of Early Virginia*, 22

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Virginia Company of London, “The oath administred by the Gouernor and counsell after mr Secretarie Dauison death to Edward Sharples,” in *Records of the Virginia Company volume III*, ed. Susan M. Kingsbury (Washington D.C.: Library of Congress, 1933), 6.

read all letters from anyone in Virginia and present their contents to the Company at their annual meetings. Only after the Company approved could letters make their way to their intended recipients. In this way, the Company controlled from the start the flow of information in the hopes that accounts like Percy's might not damage the future of the Company.

Transplanting English laws to the struggling colony was an entirely different animal than the implementation of censorship in London. As much of a failure as the English body to thrive in Virginia proved, per the promises and expectations of Hakluyt, even more so was the maintenance of order.⁵³ By 1608, John Smith had forcibly taken control of the colony from the Company's appointed governor, Christopher Newport, and implemented martial law. His actions in this regard saved the struggling colony, but his application of the law to all of the settlers at Jamestown was later disapproved of by the Company. The gentlemen of the colony, of which there were many, grumbled about Smith's mandate "that he that will not worke, shall not eate."⁵⁴ Being gentlemen, it was expected that others should work for them. Smith was not of their kind, and so minced no

⁵³ Morgan blames this on the "poor organization and direction of the colony," and this is true from the records. The government of the colony was set up in such a way that its leader "had virtually no authority of his own," and those designated as officials "spent most of their time bickering and intriguing against one another," *American Slavery, American Freedom*, 75.

⁵⁴ John Smith, *Travels and Works of Captain John Smith volume I*, ed. Edward Arber and A.G. Bradley (Edinburgh: J. Grant, 1910), 149. Morgan provides this assessment of Smith's issues with the first colonists under his command: "They were certainly an odd assortment, for the most conspicuous group among them was an extraordinary number of gentlemen," and investors, too, included "32 present or future earls, 4 countesses, and 3 viscounts ... as well as hundreds of lesser gentlemen some of them perhaps retainers of the larger men ... Of the 105 settlers who started the colony, 36 could be classified as gentlemen. In the first 'supply' of 120 additional settlers, 28 were gentlemen, and in the second supply of 70, again 28 were gentlemen. These numbers gave Virginia's population about six times as large a proportion of gentlemen as England had," *American Slavery, American Freedom*, 83-84.

words when he accused those “who notwithstanding our misery, little ceased their mallice, grudging, and muttering ... as they would rather starve and rot with idlenes, then be perswaded to do any thing for their owne reliefe without constraint.”⁵⁵ Despite the absolute necessity of Smith’s harsh regime that forced everyone in the colony to work in order to survive, to plant their own food instead of trading with (or simply killing) the natives, and to become self-sufficient, the Company scrambled to replace him because of the complaints of their adventurers and investors.⁵⁶ By 1609, when Sir Thomas Gates was appointed governor of the colony, Smith had faced mutinies, runaways, and debilitating mortality as a result of Company mismanagement, and his reputation was somewhat tarnished by his efforts to encourage the colony’s success by requiring that the rich work as well as the poor.

Regardless of the Company’s policy of censoring unfavorable reports about Virginia, Smith was famous enough, and news from the colony desired enough, that his *A True Relation* was published in London in 1608. The Company did succeed in excising most of the more damaging accounts of life in the colony, and added an introduction which stated that “the worst being already past, these former having indured the heate of the day, whereby those that shall succede, may at ease labour for their profit, in the most sweete, coole, and temperate shade.”⁵⁷ It is important that the Company linked success

⁵⁵ John Smith, *A True Relation of such occurrences and accidents of noate as hath hapned in Virginia* (London: 1608), 13-14.

⁵⁶ Morgan rightly assesses Smith as “the one man who had the experience and the assurance to take command,” *American Slavery, American Freedom*, 50.

⁵⁷ Introduction to John Smith, *A True Relation* by Thomas Watson (London: 1608).

with labor, for their answer to Smith's regime was to in turn blame the poor laborer for their own failures. The lazy gentlemen blamed in Smith's *True Relation* were replaced in Company publications with the "unthriftie and unprofitable Drones, which live idly" who did "not live painefully," or "English-men ... discontent in minde."⁵⁸ Even though the Company begrudgingly admitted to the "necessity and distresse our people were found in, for want of victuall," they added that "the noise have exceeded the truthe."⁵⁹

According to the Company, the failure of the colony at Smith's departure in 1609 was not "the designe," but rested entirely "upon the Idlenesse and bestiall slouth, of the common sort ... guilty they were to themselves of their owne demerit, and lasinesse."⁶⁰ In order to avoid the like failure, the next shipment of men to Virginia was only for those "of most use and necessity."⁶¹ Idle men need not apply for passage, for they "are the weedes and rancknesse of this land; who being the surfet, of an able, healthy, and composed body; must needes bee the poyson of one so tender, feeble, and yet unformed" as the Virginia colony.⁶² In 1609, the Company issued a call in London to "al Artificers, Smiths, Carpenters, Coopers, Shipwrights, Turners, Planters, Wineares, Fowlers, Fishermen, Mettell-men of all sorts, Brick-makers, Brick-layers, Plow-men, Weavers, Shoo-makers,

⁵⁸ Robert Gray, *A Good Speed to Virginia* (London: 1609), 34.; Richard Rich, *The lost Flocke Triumphant. With the happy Arrival of that famous and worthy Knight Sr. Thomas Gates: and the well reputed & valiant Captaine Mr Christopher Newporte, and others, into England* (London: 1610).

⁵⁹ Council for Virginia, *A true and sincere declaration of the purpose and ends of the plantation begun in Virginia* (London: 1610), 10.

⁶⁰ Ibid.

⁶¹ Ibid., 25.

⁶² Ibid.

Sawyers Spinsters, and all other labouring men and women” to journey to Virginia.⁶³

They were assured “houses to dwell in, with Gardens and Orchards, and also foode and clothing at the common charge of the Joynt Stocke,” although these promises would have made those residing in Virginia laugh in disbelief.⁶⁴ In another publication, the Virginia Company reiterated the possibilities and opportunities of Virginia including the ease and healthfulness of the voyage, the fertility of the soil, and wholesomeness of the climate.

Evidence that Virginia as a place remained perfect was based on the idea that failure was transplanted to the colony. Idleness was a malady of the body, a poison that began in England, infected its host, multiplied in Atlantic ships until it was unleashed on the unsuspecting population of Virginia. Hakluyt knew that idleness was causing stagnation in England, but believed that in Virginia would those suffering English bodies be cured through labor. The Virginia Company argued that perception was false. Virginia was too pure, healthful, and young to be crippled by idleness. That disease did not, and could not, exist. Rather, idle men and wicked persons, transplanted to the colony, impeded the success of others. The lessons gleaned by the Company from “that former experience” of Smith’s version of Virginia was

How much and manie waies it hurteth to suffer Parents to disburden themselves of lascivious sonnes, masters of bad servants, and wives of ill husbands ... to clogge the bussinesse with such an idle crue, as did thrust themselves in the last voyage, that will rather starve for hunger, then lay their hands to labour.⁶⁵

⁶³ Virginia Company of London, “For the Plantation of Virginia, Or Nova Brittania” (London: Printed by John Windet, 1609).

⁶⁴ Ibid. In fact, when this pamphlet was published, Thomas Gates was preparing to abandon the colony entirely with all of the surviving colonists.

⁶⁵ Ibid.

The Company distanced itself, and their colony, from guilt and reframed failure as the logical consequence of some inherent guilt of the wrong sorts of men in the colony. To make the point even more clearly, the Company “resolved, that no such unnecessary person shall now be accepted, but onely such sufficient, honest, and good artificers” who could provide sureties of their skill and willingness to work.⁶⁶

But really, any man would do. Men could be forced to work by law. In 1610, the new deputy governor, Sir Thomas Gates, assured the Company that he had sorted out the problems of laziness with what essentially amounted to a rousing speech at halftime. The idle were cowed by “the sword of Justice” wielded by Gates “to cut off such delinquents.”⁶⁷ The weak and feeble through “moderat labour” would recover their health, a hypothesis tested by Gates who concluded that “sicknesse was bred in them by intemperate idlenes,” rather than the lack of adequate provisions or suitable housing.⁶⁸ Gates had permission from the Virginia Company to proceed by whatever means necessary to martial the colony’s labor force. The Company advised Gates to act “rather as a Chauncelor then as a Judge” in order to “begett reverence to yor authority ... at yor discrecon.”⁶⁹ As a result of Gates’ freedom to administer the law however he saw fit,

⁶⁶ Virginia Council, *A Publication by the Counsell of Virginia, touching the plantation there* (London: Printed by Thomas Haveland, 1610).

⁶⁷ Council of Virginia, *A True Declaration of the estate of the Colonie in Virginia, With a confutation of such scandalous reports as have tended to the disgrace of so worthy an enterprise* (London: 1610), 48.

⁶⁸ *Ibid.*, 33.

⁶⁹ Virginia Council, “Instrucons orders and constitucons by way of advise sett downe declared and ppounded to Sr Thomas Gates knight Governor of Virginia and of the Colony there planted...” May 1609 in *Records of the Virginia Company volume III*, 15.

“every man knoweth his charge, and dischargeth the same with alacrity.”⁷⁰ His ability to impose order through labor in the colony prompted the Company to grant his successor, Lord Delaware, the authority to deploy both “a Sumary and arbitrary way of Justice ... wth discreet formes of Magistracy,” rather than rely “vpon the nicenes and letter of the lawe.”⁷¹ Though the law under Gates was supposed to apply “without partialitie,” the better sorts were largely excluded from punishment. Gentlemen, by their very nature “cannot digge, use the square, nor practise the axe and chizell.”⁷² Their particular sort of labor, “employ[ing] the force of knowledge, the exercise of counsell, the operation and power of their best breeding and qualities,” removed them from the reach of law in the colony since it was they who crafted and enforced it.⁷³

It was the laborers and servants of the colony who were ordered to build guesthouses for new arrivals, plant corn for the colony’s subsistence, and set to work finding and encouraging commodities. The primary purpose of law in the colony was to order and deploy labor for the profits of the Virginia Company and its investors. The Company ordered Gates to appoint a “discreete Comanunder” to oversee laborers on each plantation, and “take dayly accounte of their laboures ... thus you shall both knowe howe

⁷⁰ Council of Virginia, *A True Declaration*, 49.

⁷¹ Virginia Council, “Instructions orders and constitucons by way of advise sett downe declared ppound and deliuered to the right ho[nora]ble Sr Thomas West knight Lo: La Warr...” 1609/1610, in *Records of the Virginia Company volume III*, 26 – 28.

⁷² Council of Virginia, *A True Declaration*, 50.

⁷³ *Ibid.*

yor men are imployed, what they gett & where it is.”⁷⁴ The maintenance of order through regimented labor necessitated a strict schedule be set out for the plantations. Laborers should eat together in a public place with no more than five or six to a mess, after which they were required to “retourne to their worke without any delay.” The quality of their food needed only be sufficient enough that they “haue no cause to complaine of measure or to excuse their [i]dlenes vppon ye dressinge or want of diett.”⁷⁵ The Company required its governors in Virginia to ensure that the law worked to benefit the Company’s bottom line. A colony that could feed itself did not require provisions be sent on the Company’s dime. And of course, self-subsistence benefited all, even if “the sappe of their bodies should be spent for other mens profite.”⁷⁶ According to Company publications, the colony had stabilized under Gates so that “there is nothing wanting, but onely mens labours, to furnish both Prince, State and merchant, without charge or difficulty.”⁷⁷

Even though an estimated 800 people were sent to the colony between 1610 and 1612, in order to fulfill that desire for “mens labours,” the colony remained in dire straits.⁷⁸ The Company felt the effects of that failure in the only place it could hurt. In 1612, the Virginia Company sued several investors for payment of their debts. The

⁷⁴ Virginia Council, “Instrucons orders and constitucons by way of advise sett downe declared and ppounded to Sr Thomas Gates,” in *Records of the Virginia Company volume III*, 15, 21.

⁷⁵ *Ibid.*, 21.

⁷⁶ Council of Virginia, *A True Declaration*, 49.

⁷⁷ *Ibid.*, 64.

⁷⁸ Those sent at this point were not indentured servants, but rather tenants, agricultural laborers, and artisans who were used as laborers for Company projects in order to fulfill the need for men created by mortality. Morgan, *American Slavery, American Freedom*, 75-86.; Allen, *The Invention of the White Race*, vol. 2, 53-55.

Company's complaint cited "greater difficultie" in covering the costs of supplying the colony. "There greate and excessive Charge" drove the Company thousands of pounds into debt, and forced them to borrow on credit.⁷⁹ The Company attributed their debt to what they deemed were false reports of mortality and desperation in the colony that discouraged investment and led to a general malaise amongst the colonists. Able men could not be procured for the colony because "there is no common speech nor publike name of any thing this day, (except it be the name of God) which is more wildly depraved, traduced and derided by such unhallowed lips, then the name of Virginea."⁸⁰ Complaints leveled against martial law and hard labor in the colony were attributed to "ignorance or malice," "al kinds of loosenes," "the common sort," and "ungratious sons."⁸¹ But other sources pointed to a more insidious problem in the colony. Diego de Molina, a Spanish spy captured in Virginia, wrote to the Spanish ambassador in London that because profits, and the lack of them, ruled the lives of laborers in Virginia, "the people have suffered much want, living on miserable rations of oats or maize and dressing poorly."⁸² De Molina reported that more than half of all those who journeyed to Virginia died in their first year, an astonishing rate of mortality that resulted from "little

⁷⁹ "Virginia Company vs. Sir Thomas Mildmaye, James Bryarley, Mathewe de Quester, and Others. The Bill of Complaint," 25 November 1612 in *Records of the Virginia Company volume III*, 36 – 37.

⁸⁰ Robert Johnson, *The New Life of Virginea: Declaring the Former Successe and Present estate of that plantation, being the second part of Nove Britannia* (London: Felix Kyngston, 1612), "Epistle Dedicatorie," unpaginated.

⁸¹ *Ibid.*, 15, 17.

⁸² Don Diego de Molina to Don Alonzo de Velasco, 1613 in *Narratives of Early Virginia*, 218 – 219.

food and much labor” that “kills them.”⁸³ If they survived hard labor and hunger, it was “more than all, the discontent in which they live seeing themselves treated as slaves with cruelty” that pushed so many laborers into an early grave.⁸⁴

Discontent was understandable, given that cruelty was enshrined in the law of the colony. *The Lawes Divine, Morall and Martiall*, published in 1612 by then Deputy Governor Sir Thomas Dale was a collection of various orders and laws imposed on colonists from 1609 to its publication. While the laws applied to all in the colony, the specific crimes targeted those most likely to commit them – the poor. Stealing from a garden or killing an animal without the explicit permission of the governor was punishable by death.⁸⁵ Trading with natives or mariners without the permission of the governor was likewise punished.⁸⁶ Running away to the natives, an act most commonly committed by laborers escaping the harsh laws of the colony, was a capital offense.⁸⁷ Specific types of laborers were targeted for crimes that could only be committed in their trades. Launderers and laundresses would be whipped and held in prison if they stole linens.⁸⁸ If a baker were found in possession of stolen flour “or detain any one loafe

⁸³ Ibid., 220 – 221.

⁸⁴ Ibid.

⁸⁵ *Articles, Lawes, and Orders, Divine, Politique, and Martiall for the Colony in Virginea: first established by Sir Thomas Gates Knight, Lieutenant Generall, the 24th of May 1610. Exemplified and approved by the Right Honourable Sir Thomas West Knight, Lord Lawair, Lord Governour and Captaine Generall the 12th of June 1610. Againe exemplified and enlarged by Sir Thomas Dale Knight, Marshall, and Deputie Governour, the 22nd of June 1611.* (London: 1612), 14, 11.

⁸⁶ Ibid., 17, 8, 9-10.

⁸⁷ Ibid., 20.

⁸⁸ Ibid., 23.

more or lesse for his hire or paines for so baking,” he would be punished by “losing his eares” on the first offense, the second he was condemned to a year as a galley slave, and the third offense promised three years as such.⁸⁹ The same punishments applied to cooks who withheld food from “the generall company, or ... any private man,” or fishermen who provided a false account of their catch.⁹⁰ These laws and punishments were necessary because the laborer’s only concern was “to attend to the businesse of the Colonie ... [and] publike works.”⁹¹

The law also worked to ensure that labor was performed according to the specifications of the Company. Any laborer who did not “duly and daily attend his worke” would find on his first censure his food allowance withheld for a month, on the second for three months, the third offense merited a year without food from the common store and, “if he continue still unfaithfull and negligent therein, to be condemned to the Gally for three yeares.”⁹² Even the laborers’ overseers who were not “carefull in seeing [work] performed” were meted an unspecified punishment up to the verdict of a martial court.⁹³ And if any should take umbrage with the severity of the law and feel inclined to

detract, slaunder, calumnie, murmur, mutenie, resist, disobey, or neglect the commaundments, either of the Lord Governour, and Captain Generall, the Lieutenant Generall, the Martiall, the Councell, or any authorised Captaine, Commaunder or publike Officer, upon paine for the first time so offending to be whipt three severall times, and upon his knees to

⁸⁹ Ibid., 24.

⁹⁰ Ibid. 24 – 25.

⁹¹ Ibid., 24.

⁹² Ibid., 20.

⁹³ Ibid., 20.

acknowledge the offence, with asking forgiveness upon the Saboth day in the assembly of the congregation, and for the second time so offending to be condemned to the Gally for three yeares: and for the third time so offending to be punished with death.⁹⁴

The Virginia Council, its attendant committees, assistants, adventurers were likewise protected from the discontent of the poor laborer in Virginia, who also had to keep his opinions to himself regarding any pamphlets or books “set foorth and publisht, for the advancement of the good of this Colony.”⁹⁵

The threat of capital punishment against what were in England relatively minor offenses was rightly called “cruell, unusuall and barbarous” by some.⁹⁶ Even so, they justified the severity of the law because “more deserved death in those daies, then do now the least punishment.”⁹⁷ “People,” meaning laborers, were “of so il a condition” that only “severity and extremity” could save them from themselves.⁹⁸ Those “dangerous, incurable members” of the colony, for whom labor was “altogeather disconsonant to their natures” were useful only in their capacity through punishment “to make examples to others.”⁹⁹ At least in one way, the underlying foundations of English law were successfully transplanted to the colony, as demonstrated by Ralph Hamor’s support for martial law. Hamor argued there was

⁹⁴ Ibid., 14.

⁹⁵ Ibid., 13 – 14.

⁹⁶ Ralph Hamor, *A true discourse of the present estate of Virginia and the successe of the affaires there till the 18 of June 1614* (London: 1615), 27.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

...just cause for it, were rather to have regard to those whom we would have terrified, and made fearefull to commit the like offences, then to the offenders justly condemned, it being true that amongst those people (who for the most part are sencible onely of the bodies torment) the feare of a cruell, painefull and unusuall death, more restrains them then death it selfe.¹⁰⁰

The specific instances which Hamor felt needed defending were the executions of several men for the crime of running away from the colony, a practice almost exclusively committed by laborers.¹⁰¹ Although no record survives of their deaths, it was apparently spectacular enough for Hamor to respond to those who “to the manner of their death may ... object.”¹⁰² There are very few references to executions actually taking place in Virginia during the years it was managed by the Virginia Company, an omission most likely explained by the missing court books for this period. However, it is reasonable to assume that there existed very little need for execution since the labor regime imposed by the Virginia Company and its governors, as exemplified in *The Lawes Divine, Morall, and Martiall*, served the same purpose. If the law did not kill you, the labor probably would.

¹⁰⁰ Ibid., 27-28.

¹⁰¹ Warren Billings, “The Law of Servants and Slaves in Seventeenth-Century Virginia,” *Virginia Magazine of History and Biography* 99 (1991): 45 – 62.; T.H. Breen and Stephen Innes, *‘Myne Owne Ground’: Race and Freedom on Virginia’s Eastern Shore, 1640 – 1676* (New York: Oxford University Press, 1980).; Anthony S. Parent, *Foul Means: The Formation of a Slave Society in Virginia, 1660 – 1740* (Chapel Hill: University of North Carolina Press, 2003).; Abbot Emerson Smith, *Colonists in Bondage: White Servitude and Convict Labor in America, 1607 – 1776* (Chapel Hill: University of North Carolina Press, 1947).

¹⁰² Hamor, *A true discourse*, 27.

And still, men came to Virginia, most under false pretenses or false hopes.¹⁰³ By 1617, the Company reported that the colony was stable enough that wives and families should feel comfortable joining their husbands there.¹⁰⁴ Part of the reason the Company felt so confident was their ability by that time to suppress or counteract what they still considered malicious rumors. In addition to their continued policy of censorship, the Company had also mandated that no person could leave the colony and return to England, although exceptions were made for those who could pay to do so.¹⁰⁵ Virginia's stability was a direct result of the tobacco "boom" after 1612, and as profits flowed across the Atlantic, the necessity of martial law was eased though not entirely erased. The relief at finally achieving a marketable commodity in Virginia directly impacted the way planters used their laborers in order to achieve a profit.¹⁰⁶ If anything, the labor required for planting, growing, and harvesting tobacco was more grueling than that expended toward

¹⁰³ John Rolfe reported 81 tenants and 140 laborers working for the Virginia Company in 1616. By 1617, that number had dropped to 54 laborers as a result of others fulfilling their terms of service and transitioning into tenant status. Allen, *The Invention of the White Race*, vol. 2, 56. Beginning in 1616 was a concerted effort by the Company to send men and though the records do not state how many came each year, from May 1616 to 1618 1,650 were sent to Virginia. Morgan, *American Slavery, American Freedom*, 98 fn 26.

¹⁰⁴ Virginia Council, *By His Majesties Councell for Virginia* (London: 1617).

¹⁰⁵ This policy was lifted a bit in 1617, when the Company "resolved to give free leave and license to any who are now remaining in Virginia, at his will and pleasure to returne home into England," although this still required the permission of the Governor at his discretion. In Virginia Council, *By His Majesties Councell for Virginia* (London: 1617). Many gentlemen made the journey back and forth to England from Virginia, as evidenced by their receipts and letters, as well as reports from the Company as to who has returned and why, found in the *Records of the Virginia Company*.

¹⁰⁶ Morgan states that the tobacco 'boom' created a demand for servants since "Under [tobacco's] spell Englishmen found that they could work much harder than they had been accustomed to doing and that they could make their servants work even harder," and that "Virginia differed from later American boom areas in that success depended not on acquiring the right piece of land," since land was everywhere for the taking, "but on acquiring men," *American Slavery, American Freedom*, 105-109.

building houses and pallisades. The tobacco boom had disastrous consequences for survival in the colony as well. Since all labor was now being directed in service of tobacco, other necessary endeavors such as growing food for sustenance or developing other commodities fell to the wayside.¹⁰⁷ As the Company reaped the financial benefits of its monopoly on the tobacco trade, they increased the number of laborers sent to the colony in order to work. Their call for wives and families to join their partners in the colony was not made out of some sympathy for the loneliness and hardship of colonial life, but rather “to make the men there more settled & lesse moueable.”¹⁰⁸ To this end, the Company sent “maids young and vnccorrupt” as potential wives for the “single men vnmarried” they desired as laborers.¹⁰⁹

But all was not well in the colony, due in very large part to the general policy of the Virginia Company to send as many people as possible at the cheapest possible rate. When Captain Samuel Argall assumed his post as Virginia’s governor in 1617, the colony still had no guest house for newcomers, very little permanent housing, and nothing to speak of in the way of commodities other than tobacco. Despite the “poore fruites of our labours here,” in the words of one Virginia planter, “Our principall wealth ... consisteth in seruants.”¹¹⁰ An abundance of men and a lack of provisions threatened to

¹⁰⁷ Ibid., 109.; Allen, *The Invention of the White Race*, vol. 2, 57-61, 66.

¹⁰⁸ “A l[et]re being sent from his Ma[jes]tie directed to Mr Tre[asur]er and Counsell for the sending diuers dissolute persons to Virginia,” 24 October 1619 in *Records of the Virginia Company volume I*, ed. Susan M. Kingsbury (Washington D.C.: Library of Congress, 1906), 256.

¹⁰⁹ Ibid. There are references in this 1619 letter that this practice had occurred for several years, and would continue through 1624.

¹¹⁰ John Pory to Sir Dudley Carleton, 30 September 1619 in *Narratives of Early Virginia*, 284-285.

plunge the colony once more into chaos. Argall attempted to stave off disaster by issuing several proclamations and edicts that outlined a softer version of the martial law imposed by Smith at the colony's beginnings. These proclamations first attempted to constrain Virginia's laboring population by targeting behaviors specific to their lives. Failure to attend church services carried varying terms of slavery to the colony ranging from a week to a year and a day depending on the number of offenses.¹¹¹ Argall made it illegal to board ships docked in the James River in order to prevent runaways and more closely monitor the movements of his colonists.¹¹² Trading with the natives, dismantling structures in order to sell their timber, and hunting deer or hogs without permission were all prohibited by law.¹¹³ These orders were an attempt to undermine the underground market of goods in which the poorer sorts engaged because they could not afford those goods imported by the Company and sold at inflated prices in Virginia.¹¹⁴ At the same time, he implemented price controls for all goods coming into the colony, and mandated "3 Years Slavery to the Colony" if these price limits were exceeded.¹¹⁵

¹¹¹ Governor Argall, "Proclamacons or Edicts," 10 May 1618 in *Records of the Virginia Company volume III*, 93. Theodore Allen makes the point that the punishment of "slavery to the colony" was not the same as the reduction of the laborer to chattel bond-servitude, because his labor belonged to the colony, rather than to an owner who could buy or sell his contract at will. *The Invention of the White Race vol. 2*, 57.

¹¹² Ibid., Argall, "Proclamacons or Edicts," 18 May 1618.

¹¹³ Ibid.

¹¹⁴ Governor Argall to the Council for Virginia, 1618 in *Records of the Virginia Company volume III*, 79. Argall wrote that the supplies sent to Virginia were too "high priced", and those prices "has wholly ~~destroyed~~ discouraged them."

¹¹⁵ Governor Argall, "Proclamacons or Edicts," 7 June 1617 in *Records of the Virginia Company volume III*, 69.

Argall's willingness to punish offenders with periods of slavery was no accident. Restriction of movement from plantation to plantation, and from the colony back to England or elsewhere, functioned to monitor and control laborers and ensure that their labor was deployed fully to the service of the colony and by extension, the Virginia Company. Punishing misdemeanors with slavery *instead of* capital punishment, as under the *The Lawes Divine, Morall and Martiall*, ensured that the labor force was not diminished, and that the laborer would continue to work for the profits of his masters with no cost to the Company. Plantations were structured on the idea that not only the planters, but the colony as a whole, owned the labor of servants completely for the period of their contracts, and could therefore deploy that labor at will and without consideration for the laborer. There was no question of the intention of these measures. A contract between Lord Delaware and another lord specified that Delaware would transport seven men to Virginia "to ymploye them and their labours for the best proffitt he can" and promised to "retorne into England a full third parte of their proffit of their labours be yt more or lesse to the vse" of the contractor.¹¹⁶

Governor Argall understood what the Company desired of him in his overseeing of the colony, and the punishment of slavery only benefited the Company's bottom line. Free labor could be easily extracted from the unfree only so long as there was some semblance of just cause for that punishment.¹¹⁷ The Company noted with pleasure that

¹¹⁶ "Lord De La Warr Covenant with Lord Zouch" 27 December 1617 in *Records of the Virginia Company volume III*, 77.

¹¹⁷ Argall personally benefited, too, and the Company accused him of using Company ships and goods for his personal use, and accumulating hired wage laborers to work on his personal 400 acre land holding. Allen points to the end of Argall's tenure as the moment that laborers are transformed into chattel bond-servants whose contracts can be bought and sold. *Invention of the White Race*, vol. 2, 57-60.

after one year of Argall's reign, there was "No such thing as Idlenes now" in the colony.¹¹⁸ They were less pleased with Argall's harsh criticisms for their management style, the consequences of which necessitated the severity of law in the colony. Because the Colony promoted tobacco, the basic necessities of survival were entirely neglected by the colonists, which in turn created a greater need for imported goods into the colony. At the same time, the Company chastised the colonists for their inability to sustain themselves, believing that by this point they should be freed from further financial support for the colony. Argall therefore mandated that every person in the colony plant two acres of corn for their own subsistence, at risk of losing their corn rations and tobacco, as well as a year's term of slavery.¹¹⁹ The Company was loathe to invest any more money in a colony they deemed full of lazy people too dependent on smoke. Even though Argall maintained order in the colony, he fell into the same trap as did John Smith a decade earlier. Although his policies would seem in line with the desires of the Virginia Company as they controlled the laboring population, his rules applied to all in the colony, including the wealthier planters of the better sort. Argall's liberal use of his prerogative to direct labor in the colony, requisitioning the servants of various plantations in order to put them to work on projects for the public good, stepped on the toes of one too many planters.¹²⁰ Argall made the mistake of ignoring boundaries of status in favor of survival,

¹¹⁸ Governor Argall, "Letter to the Council for Virginia," 1618 in *Records of the Virginia Company volume III*, 79.

¹¹⁹ Governor Argall, "Proclamacons or Edicts," 18 May 1618 in *Records of the Virginia Company volume III*, 93.

¹²⁰ Governor Samuel Argall, "Letter to Citizens of Bermuda Hundred," 30 November 1617 in *Records of the Virginia Company volume III*, 76.

and his rules constrained the people on whose financial support the Virginia Company depended. His replacement, George Yeardley, proved a more malleable representative of the Company's interests in Virginia, especially in regards to the transformation of labor relationships that would maximize Company profits at the expense of the laborers sent to work on Company land.¹²¹

After Yeardley's 1619 arrival in Virginia, he set to work dividing the land amongst new adventurers and removing the "ould Inhabitants ... fro[m] this Land now chosen for the Company" per his instructions.¹²² The land set aside by the Company was called the "Governors Land" and was situated primarily on what had been "the freed grounds by the common labor of the people sent thither at the Companies charges."¹²³ The Company also directed that Yeardley arbitrarily extend the terms of indenture of those they had sent at their own charge "since the going away of Sir Thomas Dale" to seven more years labor on the "Governor's Land."¹²⁴ The Company's primary concern was the diversifying of the Virginia economy away from tobacco. A contract between several adventurers (including Yeardley) and the Company specifically iterated in the post script that

¹²¹ Both Morgan and Allen point to the arrival of Yeardley as a moment of transformation in labor relationships. Morgan argues that this transformation was a consequence of Sandys' desire to send as many laborers to the colony as possible and colonial officials' propensity for exploiting those arrivals, while Allen sees this as a consequence of Sandys' granting of several patents to private plantations that ultimately competed for servants with the Company at the same time that tobacco prices were falling. Morgan, *American Slavery, American Freedom*, 98-118.; Allen, *The Invention of the White Race*, vol. 2, 60 – 106.

¹²² Sir George Yeardley to Edwin Sandys, [n.d.] 1619 in *Records of the Virginia Company volume III*, 123.

¹²³ Virginia Company, "Instructions to George Yeardley," 18 November 1618 in *Records of the Virginia Company volume III*, 99.

¹²⁴ *Ibid.*, 99-100.

all p[er]sons by them transported for their p[ar]ticular plantacon, shall apply themselves and their labor in a large & competent manner to the plantinge sowinge settinge making and working and p[ro]curinge of good and staple comodities, in and vpon the lands granted vnto them. As namely, corne, wine, oyle, silk, gras, hempe, flax pitche and tarre, sope ashes and potashes, iron, clapborde, and other materials, and the like, And not wholly or cheifly vpon Tobacco.¹²⁵

These various commodities were to be grown, harvested, found, or mined by “those Multitudes” who the Company was prepared to send by 1620.¹²⁶ The Virginia Company also reaffirmed that there was a specific type of man best suited to life in Virginia. Preparations for a 1619 voyage noted “what kinde of men are most fitt to be sent” and included smiths, carpenters, bricklayers, brickmakers, and husbandmen. This call for skilled tradesmen was mostly for show. The Company devoted its efforts to sending not just able men to Virginia, but *anyone* who could be made to work. In a bastardization of Hakluyt’s earlier vision that the colony would provide a redemptive space for the beleaguered poor of England, the Company procured laborers as they would any other good – through trade. The Company conscripted with the City of London to procure and send 100 “Prentizes or Servants.”¹²⁷ By November, the Company proposed an additional 200 men be sent in order to work on the public land and asked the Lord Mayor of London to again furnish “100 young persons” for apprenticeships in the colony, thanking him for “the continuall great forwar[d]nes of his honorable Cytty in advancinge the Plantacon of

¹²⁵ “Indenture between Sir William Throckmorton, Sir George Yeardley, Richard Berkeley, and John Smyth, and the Virginia Company,” 3 February 1619 in *Records of the Virginia Company volume III*, 134.

¹²⁶ Virginia Company, “To Captain George Yeardly Elect Governour of Virginia and to the Council of State there being or to be,” 18 November 1618 in *Records of the Virginia Company volume III*, 98.

¹²⁷ Ibid.

Virginia ... in fur[n]ishinge outt one hundred Children this last yeare.”¹²⁸ Between 1619 and 1625, more than 8,500 poor children were sent to Virginia as indentured servants, and fewer than 1,250 survived more than a few years.¹²⁹ They were sent at very little cost, and there would always be more, which made them attractive as laborers in the colony.

The promise of servants whose labor cost relatively little to those in England was one way to attract planters and investors to Virginia.¹³⁰ The Company allowed those who set up plantations extraordinary license to exercise authority over their fiefdoms and the laborers who toiled on them, with the primary end of extracting the maximum amount of labor and profits with little regard for the people. Severe and arbitrary rules enforced an often fatal labor regime in Virginia. This in turn was supported by the idea that success in the colony came from the industrious and servile laborer, and the failure to survive was the unique end of the idle. When the Company negotiated with the City of London to send hundreds of children to the colony, an aspect of the Company’s lure rested on the fact that there were too many beggar children in London streets. Those children “being ill disposed, and fitter for any remote place then for this Citie” should be forced into service in Virginia where “vnder severe Masters they may be brought to goodnes.”¹³¹ Severity,

¹²⁸ “At a Great and Generall Quarter Court Houlden for Virginia,” 17 November 1619 in *Records of the Virginia Company volume I*, 268-269.

¹²⁹ Nathaniel Rich, “Notes of Letters from Virginia” May-June 1623 in *Records of the Virginia Company volume IV*, ed. Susan M Kingsbury (Washington D.C.: Library of Congress, 1935), 158 -159 and Linebaugh and Rediker, *The Many-Headed Hydra*, 59.

¹³⁰ David W. Galenson, “Labour Market Behaviour in Colonial America: Servitude, Slavery, and Free Labor,” in *Markets in History: Economic Studies of the Past* ed. David W. Galenson, 52 - 96 (Cambridge: Cambridge University Press, 1989), 52-57.

¹³¹ Sir Edwin Sandys to Sir Robert Naunton, 28 January 1620 in *Records of the Virginia Company volume III*, 259.

then, was understood as a necessary tool in ensuring success and profit. At a court held by the Virginia Company in April 1620, the Company addressed what they deemed the “false” report of 900 men dead in the colony, as well as complaints from servants and colonists alike that they were “vsed wth more slavery then if they were vnder the Turke.”¹³² The Company attributed these complaints to a general “turbulent Spirite” in need of “curbinge” in the colony. It was a consequence of disordered and ill-suited people, as opposed to a logical conclusion of arbitrary justice imposed by a ruling class who lorded over a severe and unequal labor regime.

The Company and colonists used the law to their advantage, but negotiated its implementation according to the status of the defendants or plaintiffs. A Captain Brewster sued former governor Argall in an attempt to appeal his condemnation. The Company agreed with Brewster, ruling that there was no reason for the colony to be under the martial law imposed by Argall. Therefore, Brewster’s condemnation was deemed “vnjust and vnlawfull, and not warrantable either in matter or forme by the Lawes of this Realme.”¹³³ Luckily for Brewster, he was of the better sort in the colony, meaning that the mishandling of his case would certainly prove more disastrous to the reputation of the Company than the case of a poor laborer whose malcontent could easily (and was) passed off as the ignorant and unfounded grumblings of a lesser man. At the same court that heard Brewster’s case, another suit was brought by various planters to

¹³² “An Vnperfect Courte Held for Virginia,” 8 April 1620 in *Records of the Virginia Company volume I*, 334-335.

¹³³ “An Extraordinary Courte helde for Virginia,” 23 May 1620 in *Records of the Virginia Company volume I*, 363.

claim the servants of the now-deceased Lord Delaware. The Court divided Delaware's servants amongst the planters, with no testimony offered on behalf of the servants or their wishes. The Virginia Company also sued one William Wye for selling 130 people in the Summer Islands who were intended for Virginia. The suit was not brought on behalf of the servants, but against Wye for violating his contract with the Company and subsequent loss of profits and labor from those 130 people. Wye was fined, but no resolution was made to recover the servants who were sold against their wills.¹³⁴ In fact, the Virginia Company expressed more concern in recovering the profits lost from the tobacco Wye sold in addition to his human cargo. John Smyth reported to the Company that Governor Yeardley was taking servants from the public land and other planters for his own private use.¹³⁵ At the same time, John Pory, a member of the Council in Virginia, complained to Edwin Sandys that servants "repyned as much as yf all their goods had bene taken from them" when ordered to "so much as an howers worke" for what he construed as the public good.¹³⁶ These examples illustrate both the Company's and colonial officials' perceptions of laborers as chattel to be "rented", "assigned", bought, sold, and requisitioned as needed.

The creation of the House of Burgesses under Yeardley in 1619 was supposed to curb dissent within the colony by offering participation in its governance to those who

¹³⁴ Virginia Company vs. William Wye, Trinity Term 1620 in *Records of the Virginia Company volume I*, 283.

¹³⁵ John Smyth to Mr. Berkeley, 1 June 1620 in *Records of the Virginia Company volume I*, 293. "Sale of our men taking newe charge of others servants to drawe to his pryvate under color thereof."

¹³⁶ Pory to Sandys, 12 June 1620 in *Records of the Virginia Company volume I*, 302.

could afford it. Those elected to the General Assembly were men who owned land, and therefore had a similar interest to the Company's in protecting their investment through law. In their inaugural August 1619 meeting, the Assembly passed a series of acts that illustrate how landholders conceptualized the problems of the past, and their solutions in the future. After a brief discussion regarding relations with the natives, the Assembly immediately addressed what they perceived as the most pressing issue across the colony's plantations, "Idleness, gaming, drunkennes & excesse in apparel."¹³⁷ "First in detestation of Idlers," the Assembly enacted that any man found living "as an Idler or runegate though a freed man" would be appointed a master and term of service "till he shewe apparent signes of amendment."¹³⁸ As for drunkenness, the maximum punishment was as "severe ... as the Governor & Councell of Estate shall think fitt to be inflicted on him," unless the offender was an officer, in which case the most he had to fear was being "degraded." He need not worry too much about his diminished status, for it was temporary and reversed when the Governor "thinke fitte."¹³⁹ Servants were also prohibited from trading with the natives, though all other members of the colony were allowed to do so.¹⁴⁰ The Assembly required that masters whip their servants for swearing, as well as pay a fine to the church.¹⁴¹ Servants were also confined to their plantations and

¹³⁷ "A Reporte of the manner of proceeding in the General Assembly convented at James Citty in Virginia, July 30. 1619," in *Journals of the House of Burgesses*, 9.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid., 12.

¹⁴¹ Ibid., 14.

denied arms unless granted permission by their masters.¹⁴² Captain William Powell, elected to the Assembly from James City, took an entire day to prosecute his servant Thomas Garnett “not onely for extream neglect of his busines, to the great loss & prejudice of the said Captaine, and for openly and impudently abusing his house ... through wantonnes wth a woman servant,” but also for accusing Powell of drunkenness and stealing from Garnett’s fellow servants.¹⁴³ No evidence was brought against Powell as to his drinking habits or sticky fingers when it came to his servants, even though drunkenness had just the day before been condemned by the Assembly. Rather, Garnett was ordered to “stand fower dayes with his eares nayled to the Pillory ... & every of those fower dayes should be publiquely whipped.”¹⁴⁴

The creation of a legislative body in Virginia was an extraordinary concession from the Virginia Company, but like every other gift from London, this one was tainted from the beginning. While the laws passed by the Assembly were “drawn out of the Instructions given by his Majesties Counsell of Virginia in England,” the Company operated as though that body was free to make their own decisions. Relinquishing some control over the colony to a representative body in Virginia allowed the Company to distance itself from financial and moral responsibility for subsequent failures. The existence of the General Assembly also released the Company from the sort of bookkeeping they had failed to do in the past. Laws were passed by the Assembly

¹⁴² Ibid., 13 – 14.

¹⁴³ Ibid., 12. Powell’s suit is the only recorded activity on August 3, 1619.

¹⁴⁴ Ibid.

mandating that masters register the names and terms of service for all of their servants, a requirement necessitated by a stunning demonstration of mismanagement by the Virginia Company that had almost certainly encouraged abuses in the system of indenture.¹⁴⁵ Incomplete or entirely neglectful record-keeping had undoubtedly led to confusion in the colony, evidenced by the laws passed regarding the sale of indentures and the “crafty or advantageous meanes” used to “intice away the Tenants & Servants of any particular plantation.”¹⁴⁶ Though these specific laws targeted the actions of masters, the Assembly faulted the servants in these transactions, with additional years of service and promises of severe punishment.¹⁴⁷ That servants were punished for the commercial demands of their masters was an ironic legal decision whereby servants were granted agency over their labor at the precise moment their lack of agency caused a problem for their betters.

Even Virginia’s very own legislative assembly could not address the increasingly desperate state of the colony, and no matter how well they constrained and punished their laborers, they were still forced to dissolve their proceedings early due to a malaria outbreak. Sickness and death were no respecters of status in Virginia. Still more people arrived in the colony, until the number of dead and dying threatened to outpace the living. John Rolfe, the constant optimist, reported a good harvest and healthy crops but few people to reap those rewards, as “many both old and new men died” as a result of a malaria outbreak.¹⁴⁸ At Smith’s Hundred, so many fell ill that “no matter of gaine or of

¹⁴⁵ Ibid., 10.

¹⁴⁶ Ibid., 14, 11.

¹⁴⁷ Ibid.

¹⁴⁸ John Rolfs to Sir Edwin Sandys, January 1620 in *Records in the Virginia Company volume III*, 244.

greate industry can be expected from them,” and the people of Martin’s Hundred experienced the same.¹⁴⁹ News of sickness and death in the colony reached England too late for the several ships who landed hundreds of men in “lusty good health,” but with too few provisions and supplies for themselves and the colonists.¹⁵⁰ Even if the Company had heard in time of the want of provisions in the colony, and the lack of adequate provisions for those journeying there, their continued neglect of this issue demonstrated a gross negligence in finding a solution. A March 1620 letter from one traveler to Sandys criticized the lack of provisions and clothes for the journey and asked that on future voyages, “aboue all let me intreat you to send them well prouided both of victualls & aparell for [they] cannot be suplyed here (vpon any termes).”¹⁵¹ In June, Yeardley reported that a ship arrived unexpectedly with a cargo of servants, no provisions, and no directions as to how to dispose of them. Yeardley states that the charge for their subsistence must be charged to the Company at great cost, since it was they who “casting up so shorte Allowance allso for clothes they come very shorte.”¹⁵² Yeardley’s desperation is evident in his letter, pleading that if any more men come before Christmas that the Company allocate enough and adequate provisions to last six months, concluding

I pray thinke it not strange I should wryght thus to send victualls with your people for you may be pleased well to conceaue that yf such numbers of people come vpon me vnexpected, and that at an vnhealthfull season and

¹⁴⁹ Ibid., 246 – 247.

¹⁵⁰ Ibid., 246.

¹⁵¹ William Weldon to Sir Edwin Sandys, 6 March 1620 in *Records of the Virginia Company volume III*, 264.

¹⁵² Governor Yeardley to Sir Edwin Sandys, 7 June 1620 in *Records of the Virginia Company volume III*, 297 – 299.

to late to sett Corne I cannott then be able to feed them owt of others labors, what I can and am able to doe yf you will have patience I will fro[m] tyme to tyme enforme you.¹⁵³

Despite these entreaties, the Company passed the costs along to those whom they considered the consumers – the colonists themselves.

It was not the Company's responsibility to provide provisions for colonists once they arrived and were settled in the colony. Their obligation was to procure people, send them to the planters in Virginia, and provision them only as far as their journey there. The colony should at this point in their existence, according to the Company's estimation, be more than able to provide for new arrivals given their already considerable investment in the colony. The Company's complete lack of recognition of their own role in creating the issue voiced by Yeardley, of sending too many people with too few provisions and without warning, is evidence of their mentality regarding the purpose of the colony and their estimation of the people sent to labor there. Those laborers sent to the colony were not meant to thrive. They were disposable. The point was to accumulate enough bodies that those who lived would survive long enough to make up for the labor lost from those who died. If the colonists needed supplies so badly, as evidenced by Yeardley's request, then friends and family should provide them as asking anything more of the Company, to them, "seemeth somewhat strange."¹⁵⁴

¹⁵³ Ibid., 299-300.

¹⁵⁴ "Richard Berkeley and John Smyth Commission to George Thorpe," 10 September 1620 in *Records of the Virginia Company volume III*, 399.

Plainly ignoring the pleas of Yeardley and others regarding the inability of the colony to support more people without proportionable provisions, the Company declared its intention to send another 600 people and voiced its “assured trust and confidence, that not onely your selues, the Gouvernour and Councell, but the whole body of the Colonie, and euery member therof” would devote their collective efforts to “the entertaining and prouiding for them so vpon their first arriuall.”¹⁵⁵ In case Yeardley and his fellow counselors misunderstood the Company’s rejection of their pleas, they crafted their response as a “request”, since it was better “to try the love of the colony, than their obedience by command.”¹⁵⁶ Again, the Company deflected criticism by seeking to place the blame elsewhere, in this case on the Virginia leaders’ questionable loyalty to the endeavor, evidenced by their lack of effort to turn men into profitable laborers of the colony. This critique was echoed by other planters and adventurers who petitioned the Company that “some man of Qualitye [be] sent Gouvernor into Virginia” in order to provide stability to the colony, the lack of which depended upon the ability of the governor to “swaye a vulgar and seruile Nature, by vulgar & seruile Spiritts.”¹⁵⁷ At every turn, the failures of the colony were the consequence of the men who labored there.

According to the petitioners, sickness and mortality were not the result of poor provisions, inadequate housing, or even the labor demands of survival, but rather the fault

¹⁵⁵ Treasurer, Council, and Company for Virginia, “A Broadside,” 17 May 1620 in *Records of the Virginia Company volume III*, 277- 278.

¹⁵⁶ Ibid.

¹⁵⁷ “The humble petition of many of ye first personall Aduenturers, & Planters, willing & ready to p[re]pare themselves, with Familyes thither agayne,” [n.d.] 1620 in *Records of the Virginia Company volume III*, 231- 232.

of men “not of equall spiritt” compared to those who “were industrious [and] ... reaped good cropps.”¹⁵⁸ Virginia needed men of industry, “such as have bene brought up to labor.”¹⁵⁹ One planter suggested these men be between the ages of 20 and 30, “for old menn either liue not or doe little seruice in this Country,” living and being of service linked inextricably for all the beneficiaries of the Virginia enterprise.¹⁶⁰ Another asked that “yf it be possible” the men sent would be “true labourers.”¹⁶¹ He supported his appeal with evidence of the last shipment of men having arrived in good health and “hold vp their heades, do[ing] worke stoutly” since “they were a party of sound, honest, and Country labouringe men.”¹⁶² In the case of the hundreds of children transported to Virginia by the City of London, the Company understood that their labors would not be beneficial until they were “brought vpp in some good Trade and profession” with the addendum “if they soe longe live.”¹⁶³

In their 1620 *Declaration of the State of the Colonie and Affaires in Virginia*, the Company acknowledged the failure of the colony to produce profitable commodities, and chalked this up to a divine will that first hardened against, but now has blessed, “this

¹⁵⁸ Rolfs to Sandys in *Records of the Virginia Company volume III*, 247.

¹⁵⁹ William Weldon to Edwin Sandys, 6 March 1620 in *Records of the Virginia Company volume III*, 264.

¹⁶⁰ Ibid.

¹⁶¹ John Pory to Edwin Sandys, 12 June 1620 in *Records of the Virginia Company volume III*, 301.

¹⁶² Ibid., 302.

¹⁶³ “Att a Greate and Generall Courte Holden for Virginia,” 2 February 1620 in *Records of the Virginia Company volume I*, 305.

noble Action for the planting in Virginia.”¹⁶⁴ Only those possessed of “ill disposed mindes” could possibly disparage the colony, and after what was, assuredly, an unbiased examination of numerous reports from Virginia, the Company declared “those Letters and Rumours to have beene false and malicious; procured by practise, and suborned to evill purposes: And contrarily disavowed by the testimony upon Oath of the chiefe Inhabitants of all the Colony.”¹⁶⁵ The wording here is important, as it was the testimony of the better sort of colonists that countered the increasingly obvious fact that Virginia had turned into a charnel house for the poor Englishman.¹⁶⁶ It was the planter and master who asserted “that the Countrey is rich, spacious, and well watered; temperate as for the Climate; very healthfull after men are a little accustomed to it.”¹⁶⁷ The natural goodness of Virginia still promised a healthy return for those who “assisted with skill and industry” the endeavor.¹⁶⁸ The Company boasted of the 1200 men sent to the colony in 1620, “most of them choise men, borne and bred up to labour and industry.”¹⁶⁹ From Devonshire came husbandmen, while out of Warwickshire and Staffordshire were sent men trained in ironworks. All of these men were to be welcomed into a country ruled by the laws of England, freed from martial law, and governed by “sundry persons of good quality, much

¹⁶⁴ Virginia Council, *A Declaration of the State of the Colonie and Affaires in Virginia: With the Names of the Adventurors, and Summes adventured in that Action*, 22 June 1620 (London: 1620), 1.

¹⁶⁵ *Ibid.*, 2.

¹⁶⁶ Morgan, *American Slavery, American Freedom*, 110.

¹⁶⁷ Virginia Council, *A Declaration of the State of the Colonie*, 2.

¹⁶⁸ *Ibid.*, 3.

¹⁶⁹ *Ibid.*, 5.

commended for sufficiency, industry and honesty” charged to “reduce the people and affaires in Virginia into a regular course.”¹⁷⁰ The conclusion of this *Declaration* makes clear exactly who benefited from the alleged improvements made in Virginia. Those adventurers, “by whose charges, care, and labour ... this famous Plantation hath not onely beene undertaken, but through so many difficulties upheld and continued,” should have for those efforts fifty acres for every person they transported at their own charge to undertake the actual labor of the colony.¹⁷¹ Who would not take this opportunity, then, to explicitly profit from the labor of others and be remembered by posterity for their contribution to “this glorious worke ... propagating of the true service of Almighty God,” and enhancing the “greatnesse and honour” of the King?¹⁷² Who could not see the immense benefit to the commonwealth, “of our whole Nation in disburdening their multitude,” in the abundant and rich fields of Virginia?¹⁷³

Reports sent to the Virginia Company throughout 1621, even by the better sorts in Virginia, contradicted nearly every aspect of the 1620 *Declaration*, even as the Virginia Company claimed “the Colony presented their greatest possible thanks to the Company.”¹⁷⁴ These reports from the colony demonstrated the disastrous consequences of sending scores of men to the colony without regard for their well-being. If God blessed

¹⁷⁰ Ibid., 6.

¹⁷¹ Ibid., 8-9.

¹⁷² Ibid., 10-11.

¹⁷³ Ibid., 11.

¹⁷⁴ Ibid., 7.

the colony, the evidence was hard to find. Captain Thomas Nuce reported to Sandys that despite the “indifferent temperature” and the “very fruytfull” soil, “yet haue wee very little of yor Corne or other graine.” Seeds planted in the spring failed to produce. The colonists found themselves facing the winter with “no other foode but bread & water and such manner of meate as they make of the Mayze.”¹⁷⁵ George Thorpe wrote to the treasurer of the Company, John Ferrar, of his fear that many servants would not survive the winter because of their “nakednesse” and the quality of their food was “unhoulsome and is a great cause of theire fluxes.”¹⁷⁶ By May, persistent and increasingly desperate pleas for adequate provisions reached a fever pitch. Ships continued to unload passengers weakened by poor fare in a colony unprepared to receive them.¹⁷⁷ Members of the Assembly in Virginia wrote to the Company asking for law books, their colonial government “many times p[er]plexed sometimes for lacke of Legall officers and some times for want of a book,” thereby countering the idea that Virginia was a well-ordered state.¹⁷⁸ In fact, the government in Virginia was especially disordered and almost certainly corrupt. Despite the serious issues facing the colony in 1620 and 1621, the Assembly spent the better part of their time arguing over how much to pay themselves.

Complicating matters for the Virginia Company was the uncertainty of their finances by 1621. Reports of mortality in the colony continued unabated into England

¹⁷⁵ Captain Nuce to Sandys, 27 May 1621 in *Records of the Virginia Company volume III*, 455.

¹⁷⁶ George Thorpe to John Ferrar, 15 May 1621 in *Records of the Virginia Company volume III*, 448.

¹⁷⁷ Jabez Whitaker to Edwin Sandys, May 1621 in *Records of the Virginia Company volume III*, 441 – 442.

¹⁷⁸ George Thorpe and John Pory to Edwin Sandys, 15/16 May 1621 in *Records of the Virginia Company volume III*, 447.

despite their best efforts to censor correspondence from Virginia. Investors balked and complained to the King that despite the considerable sums of money being spent to further the plantation, there seemed no hope for any return. The Company addressed these concerns with the same shortsightedness typical of their past dealings.¹⁷⁹ However, the threat facing them was more palpable now than ever. King James I became involved, and in June 1621 suspended the lottery system that had provided much-needed revenue for the Company – a system that failed spectacularly for those who bought in as a result of the Company’s propaganda campaign and promises of huge profits.¹⁸⁰ In his corresponding proclamation, James I condemned the Company for the “inconveniencies and evils thereby arising” from misinformation and mismanagement of the lottery. At the same time he assured his subjects this measure in no way demonstrated “any conceit of withdrawing Our favour in any degree from the said Company or plantation, and good worke by them intended.”¹⁸¹ The King’s declaration carried with it the air of defeat for the Company, and laid the blame at the Company’s feet for failure – a result, on its surface, of valuing profits over people. But the underlying feeling of that blame was that the Company failed the right sorts of people, namely those who stood to profit the most, including the King.

¹⁷⁹ Or, as Allen calls it in the title of chapter four of *The Invention of the White Race*, vol. 2, the “fateful addiction to ‘present profit’.”

¹⁸⁰ See Emily Rose, “The End of the Gamble: The Termination of the Virginia Lotteries in March 1621,” *Parliamentary History* 27 (2008), 175 – 197.

¹⁸¹ “By the King” (London: Robert Barker, 1620).

The Company in turn again passed the blame, and the financial burden, onto the colony and its government there. Immediately after the King's decision to suspend the lottery, the Virginia Company sent an unprecedented amount of letters to the Assembly in Virginia. The Company charged then Governor Wyatt and his Assembly with "prohibitt[ing] such engrosseing of commodities and forestalling the Markett." This practice started as a result of the Company's lack of financial support for the colony. It depressed the colony's economy to the detriment of the poor laborer who found provisions too costly, and therefore existed on a less than ideal diet.¹⁸² Though the Company stated "such oppression and grindinge of the poore wee in our hearts abhor," their professed concern for the prices of goods into the colony related to the complaints of adventurers who saw smaller returns on their imports as a result of inflation in Virginia.¹⁸³ The Company also berated the Assembly for its failure to build guest houses for new arrivals, a common complaint over the past years, and described the lack of adequate shelter as "a more regulated kind of killinge of men."¹⁸⁴ The Assembly in Virginia was accused of engendering discontent amongst the tenants who "are so unmercifully vsed that it is the greatest cause of [their] discontent," even though the laws regulating the colony were drafted, voted on, and decreed by the Company in London.¹⁸⁵

¹⁸² Treasurer and Company to Governor and Council, 25 July 1621 in *Records of the Virginia Company volume III*, 486 – 487.

¹⁸³ Ibid.

¹⁸⁴ Ibid., 489.

¹⁸⁵ Ibid., 489.; The Virginia Company's policy regarding the laws remained in 1621 that "No Lawes or standing Orders shall be made by the Companie, but in this manner. First, after the proposing of them in Court, they shall be referred to the examination of a select Comitie. The Comities shall present their Labours to the view of the Counseil. The Counseil approuing them, they shall be brought to the Court of

They were also condemned for depending too much on tobacco to the detriment of other possible commodities, taking public provisions for private use, neglecting public works such as the building of sturdy houses and bridges, and causing the deaths of the best laborers by working them too hard in the tobacco fields.¹⁸⁶ It was up to Governor Wyatt and his Assembly to rectify these grievances that had caused so much damage to Company by their own estimation. No further money should be expected for provisions, housing, or defense in the colony, and indeed

it is in vaine eu[e]r to hope for like supplies from hence; for want whereof if the colony fall vppon any calamitie or miserie, theires be the shame and guilt whose fault it is; as for us, it wilbe our comforts neither to haue failed in abundance of charitie hitherto, nor in timely advise and warnings now giuen.¹⁸⁷

The Company would withhold further financial support to the colony, but had no compunction whatsoever in sending a steady flow of laborers into an environment they themselves declared unfit, unhealthy, and disordered. Mortality was a problem not because of the depth of human suffering experienced by laborers in Virginia, but because the death of laborers reduced profits.

preparation on the Munday before the Quarter-Court, and there openly read. And lastly they shall passe the judgement of the Quarter-Court” in *Declaration of the State of Affaires* (London: 1620), 29.

¹⁸⁶ Virginia Company to Governor Wyatt and Council, 11 September 1621 in *Records of the Virginia Company volume III*, 504 – 505.; Virginia Company to Governor Wyatt and Council in 12 August 1621 in *Records of the Virginia Company volume III*, 495.; Virginia Company to Governor Wyatt and Council, 24 July 1621 in *Records of the Virginia Company volume III*, 480.; Virginia Company to Governor Wyatt and Council, 25 July 1621 in *Records of the Virginia Company volume III*, 489.

¹⁸⁷ Virginia Company to Governor Wyatt and Council, 11 September 1621 in *Records of the Virginia Company volume III*, 504 – 505.

Consolidation

By 1621, the process of commodifying labor in the colony was more or less complete. The cold calculations of the Virginia Company in regards to the inevitable mortality of those laborers transported to Virginia reflected concern only for the consequences that mortality had for the Company's balance sheets. Furthermore, after 1621 the Company gave up the ghost of calling for "able" laborers and instead shipped whoever they could find in whatever volumes was possible at the cheapest cost. The language used when referring to those already transported, or who would be in the near future, was explicit in its belief that a laborer was a commodity no better or worse than any other import. One proposal before the Virginia Company touted the success of Irish cattle in the colony as reason to "transport out of Ireland 20 or 30 able youthes of 16 or 17 yeares of Age to Virginia," which the Company "likinge well" accepted.¹⁸⁸ Several deputies of the Company were asked to meet with the Lord Mayor and aldermen of London to procure children as servants for the colony "and to make the best bargain for them they can."¹⁸⁹ The Company also began rewarding investors and office-holders with servants instead of cash when their stock plummeted and they found themselves deeper in debt.¹⁹⁰ In a startling example of the type of callousness with which the Company treated

¹⁸⁸ Virginia Company, "An Extraordinary Court held for Virginia," 3 April 1622 in *Records of the Virginia Company volume I*, 626.

¹⁸⁹ Virginia Company, "At a Quarter Court for Virginia," 3 July 1622 in *Records of the Virginia Company volume II*, ed. Susan M. Kingsbury (Washington D.C.: Library of Congress, 1906), 75.

¹⁹⁰ John Clarke was awarded land and servants "in reward of the good service he had donn the Company in transportinge of people and Cattle to Virginia," 22 May 1622 in *Records of the Virginia Company volume II*, 32. A Mr. Howe, "cronicler" was similarly gifted land and tenants in Virginia for writing a favorable report about Virginia, 20 May 1622 in *Records of the Virginia Company volume II*, 16. A Mr. Pountice,

laborers in Virginia, newly-appointed Governor Wyatt was sent thirty laborers for his plantation to make up for “those what wee understood through mortality had failed.”¹⁹¹

According to the Company’s own records, 1300 people were transported to Virginia in 1621, more than double the amount of people already residing there at the close of 1620.¹⁹² Sixty-one women were sent in August for the purpose of marriage at the price of £120 weight of tobacco per woman.¹⁹³ An unrecorded number of boys could be purchased in the colony at £10 a child.¹⁹⁴ Eighty men were transported in April at the cost of £6 a man, and in May the Company contracted with a “Gentlemn of good Account and sufficiency” for a “good number of young men and mayds ... at an easie rate” to be transported into Virginia.¹⁹⁵ Edwin Sandys proposed that the Company draft a bill for the House of Commons with the goal that “each Cittie Towne and Burrough towards the sendinge of their poore with whome they are pestred into Virginia ... att the charge of the parish where they live,” a proposal greeted “with a verie great and gratefull applause,”

former Vice Admiral in Virginia, was granted six of the children transported in 1622 as payment for service in that office, 3 July 1622 in *Records of the Virginia Company volume II*, 75.

¹⁹¹ Virginia Company, “Instructions to Governor Wyatt” 24 July 1621 in *Records of the Virginia Company volume III*, 471.

¹⁹² Virginia Company, “Note of Shipments to Virginia,” May 1622 in *Records of the Virginia Company volume III*, 639 – 643. The Company recorded 843 people in Virginia at the end of 1620, of which 240 were reported to have died by 1621, and another 120 estimated to have either run away or died in their journey to Virginia that year. “Notes from Lists showing total number of Emigrants to Virginia” 1622 in *Records of the Virginia Company volume III*, 536.

¹⁹³ Virginia Company to Governor Wyatt and Council, 12 August 1621 in *Records of the Virginia Company volume III*, 494.

¹⁹⁴ Ibid.

¹⁹⁵ Virginia Company, 30 April 1621 in *Records of the Virginia Company volume I*, 455.; Virginia Company, “A Court held for Virginia” 23 May 1621 in *Records of the Virginia Company volume I*, 477.

since the Company was saving money.¹⁹⁶ Those who went as laborers, servants, even prospective spouses, were anonymous in the meticulous records of the Virginia Company. Only 165 of the 8,500 children sent to Virginia between 1619 and 1625 had their names recorded.¹⁹⁷ Their lives were accounted for merely for the profits their labors were supposed to provide the Company and its adventurers. Thus could the Company complain to the Assembly in Virginia that the boys transported on the Company's dime offered only a meager return of "66 li of Tobacco only and that of the worst and basest, so that freight and shrinkage reconed together with the basenes of the Comoditie, there was not on half returned."¹⁹⁸ A marriage contracted with any of the women sent as wives carried with it specific financial constraints and benefits, regulated by the Company, "and in case any of them dye" the Company's investment in procuring and transporting that woman was protected in the same contract.¹⁹⁹ Patents granted to adventurers after 1620 for the transportation of laborers to Virginia protected the adventurer's investment and land "if the said p[er]son soe transported continue there three whole yeares or dye in the meane season after he or they are once shipped."²⁰⁰

¹⁹⁶ Virginia Company, "A Preparatiue Court held for Virginia," 11 June 1621 in *Records of the Virginia Company volume I*, 479 – 480.

¹⁹⁷ Linebaugh and Rediker, *The Many-Headed Hydra*, 59.

¹⁹⁸ Virginia Company to Governor Wyatt and Council, 12 August 1621 in *Records of the Virginia Company volume III*, 494.

¹⁹⁹ Ibid.

²⁰⁰ Virginia Company, "Form of a Patent" 30 January 1622 in *Records of the Virginia Company volume III*, 595.

The ambivalence with which the Company treated the laborer in this process of commodification was greeted by a slew of petitions beginning in 1622, from the beleaguered servants in the colony seeking to assert not only their rights as English subjects, but their very humanity. Adam Dixon was hired as a master caulker by the Company for three years, after which he was “forceably detaineyd for the seruice of the Colony in their imployment for the terme and time of seauen yeares or thereabout,” a claim the Company first denied and then subsequently blamed on former Governor Yeardley. That was, *if* Dixon were to be believed.²⁰¹ Dixon’s petition joined others in a collective suit against the Company charging that the government in Virginia, under orders from the Company, had forced them “to serue their use without any recompence.” The Company dismissed their claims “as they have no Inducements to p[er]swade them to be true.”²⁰² In the same meeting that heard this petition, the Company brought charges against former Governor Argall for “his misimployinge, and convertinge to his owne vse their Tenants and servants ... to the great detriment of the Companie and almost destruccon of the Plantacon,” a suit the Company would prosecute until its dissolution in 1624.²⁰³ A petition filed in the House of Commons by Virginia planter John Bargrave accused the Company of imposing a “Tirannical gouernment ... By means whereof many pore people in Virginia were depriued of their liues and goods and many were brought

²⁰¹ Virginia Company, “At a Virginia Court,” 19 June 1622 in *Records of the Virginia Company volume II*, 44.

²⁰² *Greevances of certayne Inhabitants of Kikatan in Virginia now called Elizabeth Citty*, 19 June 1622 in *Records of the Virginia Company volume II*, 45.

²⁰³ *Ibid.*, 56.

into Condemnation and slavery,” a charge the Company dismissed by stating the necessity of its harsh justice, “without which the colony consisting then of such debauched and irregular persons could not possibly continue.”²⁰⁴ Richard Minter was ordered to pay £100 of good tobacco to the Company for his transportation back to England, despite the Company’s agreement that he was being held illegally in bondage in Virginia.²⁰⁵ Gregory Dorey found himself indentured to the Company after “being by chance present” in Gravesend and forced aboard a ship to Virginia “against his will.” The Company stated his petition was to be heard by Governor Wyatt in Virginia, and Dorey subsequently disappeared from the record.²⁰⁶

Aside from outright dismissal of these petitions, the Company ordered that the government in Virginia get their house in order by imposing stricter control over those most likely to complain. They also punished the colony by diverting the “hundred youths” intended for Virginia to the Summer Islands, for the colony’s inability to sustain itself despite being “continually urged from vs, and yett as constantly neglected and contemned.”²⁰⁷ In an August 1622 letter to the Assembly in Virginia, the Company “seriously advise[d] and invite[d]” them to “the speedie redresse of those two enormous

²⁰⁴ John Bargrave, “Petition to the Committee for Grievances” 22 November 1621 in *Records of the Virginia Company volume I*, 518.; Virginia Company “Response to Bargrave,” in *Records of the Virginia Company volume I*, 521.

²⁰⁵ Virginia Company, “At a Court Held for Virginia,” 14 August 1622 in *Records of the Virginia Company volume II*, 101.

²⁰⁶ Virginia Company “At a Courte held for Virginia,” 6 August 1623 in *Records of the Virginia Company volume II*, 465.

²⁰⁷ Virginia Company to Governor Wyatt and Council, 7 October 1622 in *Records of the Virginia Company volume III*, 684.

exesses of apparell and drinkeing,” charges most commonly brought against the lower sorts of people.²⁰⁸ Governor Wyatt had already issued several proclamations to that effect, punishing drunkenness on a sliding scale depending on the offender’s status. For “anie gentleman or other aboue the degree of a serjeant,” the offense carried with it the punishment of £5 and a free man was required to pay 40 shillings. A tenant was fined 20 shillings and put in the stocks for twelve hours, while a servant was “put necke and heeles” for two hours and apprentices were whipped.²⁰⁹ This gradation of punishment applied as well to stealing, with servants whipped and free men fined. In regards to swearing, Wyatt ordered that every master was required to “Correct euerie one of his servants soe offending” at the risk of paying a five pound fine for failure to do so. If a servant remained “notorious & incorrigible” in spite of his master’s punishment, he was to be punished with a “red hot Iron” through the tongue.²¹⁰

While Governor Wyatt attempted to control the colony by proclamation, the Assembly in Virginia bristled at the sins being laid at their feet by the Company, answering every accusation with one of their own. The drunkenness of servants was a result of “the Covetosnes of some at home ... fillinge the Countrey wth wyne not onely in quantetie excessive, but in qualletie base and infectious,” which in turn felled many a

²⁰⁸ Virginia Company to Governor Wyatt and Council, 1 August 1622 in *Records of the Virginia Company volume III*, 666.

²⁰⁹ Governor Francis Wyatt, “Proclamations”, 21 June 1622 in *Records of the Virginia Company volume III*, 658.

²¹⁰ Ibid., 659.

laborer who did not know better and cheated the colony of the fruits of his labors.²¹¹ As for housing, Virginia's colonial administrators would have been more than willing to construct adequate lodging for newcomers "Provided yt we be not charged from home wth such multitudes of people scantlie or vtterlie vnprovided, as formerly hath been sent and come over."²¹² The sorry state of new arrivals as a result of the Company's cost-cutting measures that put more people and less food on each ship, rendered those who were supposed to work "hardly worth their victuals."²¹³ The Company demanded the Assembly investigate claims of servant abuse at the hands of their masters. The Assembly responded that they were sent "desperat fellowes" beset with "stubbornesse" to the peril of the colony, or that through want of provisions masters were "enforced to sell" servants for their own survival. Finally, because the Company kept no records as to who they sent to Virginia, or to whom, the Council could hardly be held responsible should one servant or another slip through the cracks.²¹⁴ These answers carried the air of a benevolent concern for the poor man in Virginia who was promised a land of opportunity and found only one of hard labor, hunger, and death. But even the Assembly could not maintain that charade for long.

George Sandys, brother of the Virginia Company's treasurer, excoriated the Company for its failure to provide adequate provisions for the journey to Virginia, then

²¹¹ Council in Virginia to the Virginia Company in London, 20 January 1623 in *Records of the Virginia Company volume IV*, ed. Susan M. Kingsbury (Washington D.C.: Library of Congress, 1935), 11.

²¹² *Ibid.*, 13.

²¹³ George Sandys to John Ferrar, March 1623 in *Records of the Virginia Company volume IV*, 22.

²¹⁴ *Ibid.*, 23.; "A Court held for Virginia," 18 June 1623 in *Records of the Virginia Company volume II*, 439-40.

bemoaned those hungry newcomers for making “a dearth of a plentiful harvest.”²¹⁵

Writing to his brother Samuel, Sandys defended the harsh treatment of servants because there were, by his account, too few of them to support their masters. He had in the past year “lost 23 men by sicknes, and receiued not one of those 25 wch the Companie contracted to send me,” the remaining servants “looseing their crops whilst they hunt for their Bellies.”²¹⁶ Another planter complained that the widespread desperation in the colony as a result of the Company’s lack of investment, caused his servants to run away and try their luck elsewhere “to ye great losse & hindrance of yor petitioner ... [who] shalbe much indemnified thereby.”²¹⁷ When the Company raised the prices of imports, servants were “deterred from imployeing theire labors in raisinge those Comodities” because they were not fed and clothed enough to be induced to care, or “putt out” by their masters to make their own way so that those same masters could pay for goods.²¹⁸ One of those commodities, the glassworks, failed because “Al the seruants are dead” and the charge to hire more “is intollerable.”²¹⁹ Similarly, the Company’s lack of financial support for the building of guest houses fatally wounded the effort to erect saw mills, as the laborers sent for that purpose were “dishartned by their vnkind enterteynement in

²¹⁵ George Sandys to Samuel Wrote, 28 March 1623 in *Records of the Virginia Company volume IV*, 65.

²¹⁶ George Sandys to Samuel Sandys, 30 March 1623 in *Records of the Virginia Company volume IV*, 74 – 75.

²¹⁷ Thomas Passmore to Governor Wyatt, September 1623 in *Records of the Virginia Company volume IV*, 96.

²¹⁸ Council in Virginia “An Answer to a Declaracon of the Present State of Virginia,” May 1623 in *Records of the Virginia Company volume IV*, 140.

²¹⁹ George Sandys to John Ferrar, 8 April 1623 in *Records of the Virginia Company volume IV*, 108.

Virginia and almost famished by their meane provisions,” causing them all to fall sick and die.²²⁰ The ship *Abigail* unloaded its cargo of servants who promptly “died in the streets ... and so little cared for that they haue lien vntill the hogs haue eaten their Corps.”²²¹ This horrific account concluded that their deaths were the unfortunate consequence of the Company’s “generall litle care of ought but extorting vpon the people.”²²² A flurry of letters made their way into London, and consistently accused the Company of exacting profits at the expense of people’s lives. Hundreds died as a result of the Company’s policy of “stuffing of their Shippes in their passages wth too great a number, for the lucre & gayne it seems of the Owners,” or the “sendeing of so many people before the Contrey was fitt to receaue them,” with scarce enough provisions that travelers “were half starued for want of Victualls.”²²³ In the colony, letters described the high price of commodities whereby “Great men are payed, but poore men must bide the loss,” so that the “poorer sort are not able to liue.”²²⁴ “Poore Tenants that have nothing dye miserablie through nastines & many depte the world in their owne dung for want” came another report from the colony.²²⁵ Thomas Best, a servant in the colony, lamented to

²²⁰ Council in Virginia, “An Answere,” in *Records of the Virginia Company volume IV*, 144.

²²¹ “From the Attestation of divers sufficient and understanding sea men,” April and June 1623 in *Records of the Virginia Company volume IV*, 94.

²²² Ibid.

²²³ Sir Nathaniel Rich, “Notes of Letters from Virginia,” May 1623 in *Records of the Virginia Company volume IV*, 160-161.

²²⁴ “Notes taken from Letters which came from Virginia in the ‘Abigail’,” 25 March 1623 in *Records of the Virginia Company volume IV*, 231, 230.

²²⁵ Ibid., 231.

his brother “My Master Atkins hath sold me for a 150 li sterling like a damnd slaue” because Atkins could not afford to feed him any longer.²²⁶ Another of Atkins’ servants, Henry Brigg, said he was sold to another master who supported him no better than could Atkins, “here we haue but a wyne quart of Corne for a day and nothing els but Water, and worke hard from sun rising to Sun sett at felling of Trees and we haue not victuals not past for 20 dayes.”²²⁷

Almost every letter sent to the Company reached a similar conclusion, that the Company’s mismanagement of the colony exacerbated the mortality of its laborers, thereby inflicting its own financial wounds. Implicit in this narrative was the notion that perhaps those sent for the purpose of laboring in the colony were more prone to succumbing to the rigors of life in Virginia. If the colony were full of “able” men as was intended at the colony’s inception, the story of Virginia by 1624 might have been different. The poor of England were certainly more susceptible to the promises made by the Virginia Company, prompting one planter to muse that “I am pswaded that more doe die here of the disease of their minde then of their body by having this countrey victualls over-praised to them in England.”²²⁸ Even John Smith reflected that “As for the

²²⁶ Ibid., 235.

²²⁷ Ibid., 236.

²²⁸ George Thorpe to John Smith, 19 December 1620 in *Records of the Virginia Company volume III*, 417. The Council in Virginia also noted the destructive effects of propaganda in its answer to the 1620 *Declaration* published by the Virginia Company in London, stating “it were to be wished those who drew the delcaracon to his Matie would leave varnishing their owne Accons wth colourable shewes and Causinge ballads to be printed of Wee knowe not what imaginarie successe plenty and prosperitie and be drawne so farr at last to Comiserate the Calamitous and distressed estate of or poore Countryemen as fullie and cleerlie to discover the same to the viewe of or most gracious Soueraigne,” Council in Virginia, “An Answer,” May 1623 in *Records of the Virginia Company volume IV*, 151.

letters of advice from hence, and their answers thence, they are so well written, men would beleieve there were no great doubt of the performance, and that all things were wel, to which error here they have beene ever much subject.”²²⁹ Certainly the Company and Governor Wyatt still believed, despite overwhelming evidence to the contrary, that the type of man sent to labor in Virginia directly correlated to the failure or success of a particular endeavor. In August 1623, the Company sent over nine “fitt and able” men to set up the ironworks that had failed as a result of the previous laborers’ deaths.²³⁰ Governor Wyatt, for his part, addressed concerns of price gouging by blaming the “comon sort of people” in the colony who spent more money on “sacks, strong waters, and other such Drinks” than on food.²³¹ “Lewd and ill disposed persons” depleted the colony’s store of meat, prompting Wyatt to proclaim that any colonist discovered to have killed a beast or bird without his permission would be punished “wth no lesse than Death.”²³²

By the time Wyatt issued these proclamations, the colony and Company faced a new problem of bodies as a consequence of their decisions over the past decade. Quite simply, there were too many dead bodies to justify the cost of continuing as before. The colony had long suffered under the type of severe law as imposed by Wyatt, but this

²²⁹ John Smith, *Generall Historie in Narratives of Early Virginia*, 401.

²³⁰ Virginia Company to Governor Wyatt, 6 August 1623 in *Records of the Virginia Company volume IV*, 269.

²³¹ Governor Wyatt, “A Proclamation touching the rates of Comodities,” 31 August 1623 in *Records of the Virginia Company volume IV*, 272.

²³² Governor Wyatt, “A Proclamation against stealing of beasts & Birds of Domesticall & tame nature,” 21 September 1623 in *Records of the Virginia Company volume IV*, 284 – 285.

round was different. Even though Wyatt's laws targeted the poor and not the rich, the fruits of the Virginia Company's labors over the past two decades were now ripened and ready for the harvest. No matter how the Company's supporters spun the narrative to accuse the idle for Virginia's failure, the deaths of so many laborers now impacted the pocketbooks of too many investors and planters on either side of the Atlantic.

Accusations of egregious callousness, coming as they were from the better sorts of people in the colony and in London, heralded the end of the Virginia Company. The death pangs of the Company were as sudden as they were spectacular, though not entirely surprising. Political infighting led to the total collapse of censorship, evidenced by the Company's inability to suppress the accounts of horrific mortality and desperation in their colony.

Alderman Robert Johnson, one of the first members of the Virginia Company, petitioned the King for an investigation into the management of the colony by his colleagues in April 1623. By the end of the year, Johnson provided a detailed and scathing critique of his Company. In it, he blamed the Company for transporting scores of people without sufficient provisions into the colony, extorting the colonists for necessary foodstuffs, appointing rapacious men to govern both the colony and its various plantations, luring men to the colony with false promises and outright lies, and imposing an unduly severe and fatal labor regime on servants for profits in lieu of providing housing or food.²³³

Johnson's account was supported by the General Assembly in Virginia, who told of colonists

²³³ Alderman Robert Johnson, "The humble petition of Sundry the Adventurers and Planters of the Virginia and Summers Ilands Plantacons," April 1623 in *Records of the Virginia Company volume IV*, 174 – 177.

Forced by famine to filch for their bellies, of whom one for steeling of 2 or 3 pints of oatemeale had a bodkinge thrust through his tounge and was tyed wth a chaine to a tree untill he starved, yf a man through his sicknes had not been able to worke, he had noe allowance at all, and soe consequently perished. Many through these extremities, being weery of life, digged holes in the earth and there hidd themselves till they famished.²³⁴

The charges leveled by Johnson preceded the initiation of quo warranto proceedings in November 1623 to investigate the abuse of power by the Virginia Company in its administration of the colony. In the midst of the year-long inquiry, Captain John Bargrave drafted “A Forme of Polisie to Plante and Governe many Families in Virginea, soe as it shall naturally depend one the soveraignetye of England” at the direction of the Crown. This policy was intended to reverse the disastrous effects of the Company “layeing the groundes of their gouvernement accordeing to their private interest and severall joyntestockes,” which in turn allowed the Company to treat “our free subjectes in Virginea as if they were their servauntes.”²³⁵ Even worse, the Company’s “tyrannicall” laws, paired with their consistent failure to send a proportionate amount of supplies with the men sent to labor in the colony, “forced” many “to breake them [the laws] for wante of food and necessities,” who then either “misereably lost their lives or bene brought into slaverie.”²³⁶

²³⁴ House of Burgesses, *The Answere of the Generall Assembly in Virginia to a Declaratione of the state of the Colonie in the 12 yeers of Sr Thomas Smiths Government, exhibited by Alderman Johnson and others*, in *Journals of the House of Burgesses*, 21 – 22.

²³⁵ Captain John Bargrave, “A Forme of Polisie to Plant and Governe many Families in Virginea, soe as it shall naturally depend one the soveraignetye of England,” 7 December 1623 in *Records of the Virginia Company volume IV*, 410.

²³⁶ *Ibid.*, 413-414.

One of the most damaging critiques came from Captain Nathaniel Butler, whose account of his time in Virginia through the winter of 1622 provided lurid and graphic details of the lives and deaths of Virginia's poorest residents, as well as the greed and heartlessness of its governors. *The Unmasked Face of Our Colonie in Virginia* deconstructed nearly every claim made over the past decades by the Virginia Company in regards to its colony. The beneficial climate of Virginia was offset by the Company's choice of land "seated vppon meer Salt Marishes full of infectious Boggs and muddy Creeks and Lakes" and made the colony comparable to "the most vnsound and most vnhealthie partes of England."²³⁷ Trade was stymied by the shallow harbors that were too dangerous to load or unload goods, so that "the poore people are forced to a continuall wadinge and wettinge of themselvs" in their efforts to secure the necessary provisions onboard.²³⁸ The voyage to Virginia was longer and more dangerous than the Company had claimed in the past, and in their quest to send as many men as possible in the shortest time, most captains undertook the journey with little regard for when they would arrive. There was no guesthouse for newcomers, and no effort whatsoever to aid those who landed half-starved and in the middle of winter. "In much distress of victuall," the colonists found that provisions of English corn could be had at exorbitant and unconscionable rates.²³⁹ Despite the Company's patents that mandated the colonists be governed by the same laws as those in England, Butler found

²³⁷ Captain Nathaniel Butler, *The Vnmasked face of or Colony in Virginia as it was in the Winter of ye yeare 1622* in *Records of the Virginia Company, volume II*, 374 – 376.

²³⁸ Ibid., 374.

²³⁹ Ibid., 375.

in ye Gouvermt there not only ignorant & enforced strayings in divers pticulars butt willfull & intended ones In soe much as some who vrged due conformitie haue in contempt been termed men of Lawe, and were excluded from those rights wch by orderlie pceedinge they were elected and sworne vnto here.²⁴⁰

Doubtless these discrepancies in the law led to the deaths of scores of colonists, especially the laborers and servants who felt the heaviest burden of arbitrary justice, while the rich – their governors – were largely exempted from any punishment. Butler estimated that over the course of the Company’s administration no fewer than ten thousand people were transported into the colony. Of that number, “through the aforementioned abuses and neglects,” only two thousand remained alive and of those living, fewer still were long for this world.²⁴¹ If the Company were allowed to continue its disastrous policies in Virginia, “in steed of a Plantacon itt will shortly gett ye name of a slaughter house and soe justly becom both odious to our selvs & contemptible to all the world.”²⁴² The Company could only offer half-hearted rebuttals to Butler’s claims, made by “persons of worth” who simply reiterated the standard Company lines proven time and time again to be gross exaggerations of fact in the colony. To Butler’s assertion that colonists “are not onely seen dyinge vnder hedges and in the woods, but beinge dead ly some of them for many dayes vnregarded and vnburied,” the Company replied “as for dyinge vnder hedges ther is noe hedge in all Virginia.”²⁴³ Committees were formed to

²⁴⁰ Ibid., 376.

²⁴¹ Ibid.

²⁴² Ibid.

²⁴³ Virginia Company, “At a Court held for Virginia,” 31 April 1623 in *Records of the Virginia Company volume II*, 382.

investigate these and other claims, but ultimately, the final year of the Company was spent in full-fledged retreat from reality.²⁴⁴ The growing clamor of dissent both in the colony and in England led the Company to affect a wounded countenance, lamenting that complaints and criticisms “did much greiue the Company, that where they deserved thanks for their Charitie they should be Complayned of for Oppressors.”²⁴⁵

Quo warranto proceedings concluded in May 1624, and their findings and conclusions were damning. The Company and its governors had operated with impunity and with fatal consequences for those over whom they exercised authority. They had “at their own proper pleasure” sent “what soever persons it shall please them” to their deaths in Virginia.²⁴⁶ The Company’s administration of the colony was based on its own presumption that they exercised absolute control in financial and legal matters, a presumption which, according to the King’s estimation, was entirely false.²⁴⁷ The Company lost its claim over the colony in 1624 after the quo warranto proceedings, and the King assumed its administration. In 1625, Charles I issued *A Proclamation for settling the Plantation of Virginia* intended to settle affairs in its government. Although the King held the colony in his own right, he could not neglect courting continued investment. To this end, he assured planters and adventurers that the change in leadership was only “to reduce that government into such a right course,” and would not therefore “take away, or

²⁴⁴ “A Court held for Virginia,” 18 June 1623 in *Records of the Virginia Company volume II*, 439-440.

²⁴⁵ Virginia Company, “At a Courte held for Virginia,” 21 April 1624 in *Records volume IV*, 523.

²⁴⁶ “Quo Warranto Proceedings,” November 1623 – May 1624 in *Records of the Virginia Company volume IV*, 382.

²⁴⁷ Ibid.

impeach the particular Interest of any private Plantor, or Adventurer, nor to alter the same.”²⁴⁸ Despite the dangerous tide of anti-Company sentiment in reports and published accounts, its leaders escaped much of the wrath directed toward them. The King’s proclamation made scant mention of the disastrous and fatal government of the Company, stating only that “any Company or Corporation, to whom it may be proper to trust matters of Trade and Commerce ... cannot bee fit or safe to communicate the ordering of State-affaires.”²⁴⁹ Concerns over the import of Virginia tobacco, as well as the singular devotion to growing that commodity in the colony, made up the rest of the proclamation.

The King paid lip service to the more noble goals of the colony’s inception, of propagating the English brand of Christianity and lifting up the poor through labor, but these rang hollow in comparison to the increase of trade and commerce from Virginia. Nowhere in the King’s proclamation were laborers or servants mentioned, and this omission was probably by design, since few actually cared about their plight except as it applied to the accumulation of profits. Even the harshest critics of the Virginia Company, whose accounts were closer to the truth than any document ever published by the Company, revealed their disdain for the poor men, women, and children sent into the slaughterhouse of Virginia. Alderman Johnson’s first draft of his list of grievances against the Company’s administrative policies blamed the poor for their drunkenness, “The excessiue drinking wines and hot waters keeps downe the growth of the Plantacon

²⁴⁸ Charles I, *A Proclamation for settling the Plantation of Virginia* (London: 1625).

²⁴⁹ Ibid.

for that in one week they spend more in drink than they get in 6 moneths.”²⁵⁰ Captain Bargrave, for all of his lamentations regarding the detrimental consequences of governing a colony according to private interests, proposed retaining the Company’s tradition of applying different levels of justice according to the status of the offender. In fact, Bargrave takes further this tradition in his suggestion that colonists be separated by law into “degrees”, the purpose of which he explained as

This severing our degrees accordinge as every one appropriates his freedome to himselfe fundamentally by purchase must naturally take awaye all contention aswell for equall liberty as for riches and consequently lottes founded on a rethmeticall equallitye, for every one will labour to maintaine the propriety of his freedome in his degree according to his right as well as his goodes and landes.²⁵¹

It seems remarkable that the critiques of men like Johnson and Bargrave should capitalize on the emotions of readers with tales of abuse and mortality, horrors primarily inflicted on the laboring poor in Virginia, and neglect suggestions for their amelioration. Their accounts specifically attacked the Company’s mismanagement of the colony and acknowledge the disastrous effect of treating human beings, English subjects, as commodities – tools for the private interest of a few. And while these withering accounts proved the undoing of the Virginia Company, the truth they tell about the actual devastation in the colony stemming from that same commodification was not to be addressed again once the Virginia Company was destroyed.

²⁵⁰ Alderman Robert Johnson, “Drafts of a Statement Touching the Miserable Condition of Virginia,” May or June 1623 in *Records of the Virginia Company volume IV*, 176-177.

²⁵¹ Captain John Bargrave, “A Forme of Polisie to Plante and Governe many Families in Virginea, soe as it shall naturally depend one the soveraignetye of England,” 7 December 1623 in *Records of the Virginia Company volume IV*, 415.

CHAPTER TWO
“THE CAREFUL ENDEAVOURS OF MR ORDINARY”:
THE BODY POLITIC AND BODY CONDEMNED AFTER THE GLORIOUS
REVOLUTION

My precious Lord, from all Transgressions free,
Was pleas'd, in tender pity unto me, To undergo the Ignominious Tree.
I suffer justly; but his Sacrifice, I trust, shall make my groveling Spirit rise,
And from the Gibbet mount the glorious Skies.

- William Johnson, poem found in his cell in the condemned hold of Newgate
prison, 16 March 1677.

Introduction: Tyburn Tree, March 1677.

When Thomas Sadler met the Ordinary of Newgate, Samuel Smith, in London's Newgate Prison in March 1677 he had been condemned to die at the Old Bailey for robbery. The official court record noted the damning evidence of Sadler's guilt, but also that "He carried himself ... very insolently, and was of so vainglorious an humour" before he was sentenced. When the judge condemned Sadler to die, Sadler "fell down at the Bar in a Swoon, so terrible an apprehension it made upon his Spirit."¹ Sadler's spiritual and bodily torment continued as he waited for his execution. The Ordinary recorded his first impressions of Sadler in the condemned hold at Newgate, where he "seem'd to be in a strange kind of Agony with the terrours of his condition, flinging his Hat one way and his Perriwig another, and wringing his hands in a lamentable manner."²

¹ Proceedings of the Old Bailey, 7 March 1677.

² Ordinary of Newgate's *Account*, 16 March 1677.

Like “a prudent Soul Physician,” the Ordinary diagnosed Sadler’s spiritual guilt in order to justify his temporal condemnation.³ Sadler’s body “vainly Shew[ed] the greatness or stubbornness of his Spirit,” and allowed the Ordinary to discern “symptoms of Remorse or Contrition for his Offense.”⁴ In his ministrations to Sadler on the “desperateness of his present estate, the wickedness of his past life, the shortness of his time, [and] the necessity of speedy Repentance,” the Ordinary watched Sadler for the physical evidence of a “deep sense and impression ... upon his Heart” that marked Sadler’s soul for salvation.⁵ He noted with pleasure that Sadler “could not restrain the tears from over flowing his cheeks” and later “bewailed his Condition.”⁶ Nine days after his condemnation, Sadler joined William Johnson, Francis Webb, Matthew Gammond, and Anthony Richoake in a cart that would take them to the permanent gallows known as Tyburn Tree. As they wound their way through the London streets crowds gathered to see these criminals who, “like senseless Swine to their vomit,” had neglected the word of God and the law of man time and time again.⁷ Throughout the performance, the evidence of their guilt was displayed on and through their bodies. The noose was already around their necks, their gazes were appropriately downcast and remorseful, and the Ordinary lorded over them all preparing them for their end. At Tyburn, the condemned voiced the

³ Ordinary of Newgate’s *Account*, 22 May 1686.

⁴ Ordinary of Newgate’s *Account*, 16 March 1677.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

lesson that the crowd should glean from their public deaths. As each man “acknowledged the Justice of their Punishment,” the State was released from the guilt of murdering its subjects and the legality of execution was affirmed. A deeper, spiritual meaning was granted to the execution through the interpretation of the Ordinary. Encouraged by the Ordinary, the condemned performed salvation and redemption by linking crime with sin on the gallows. Sadler told the crowd “to avoid those wicked Courses, and have a Care of Pride, Idleness, and Ill Company.”⁸

Samuel Smith recorded the stories of hundreds of condemned men and women in his tenure as the Ordinary of Newgate from 1676 to his death in 1698. His *Account of the Behaviour, Confession, and Last Dying Speeches of the Criminals Executed at Tyburn* was published after every execution day. Ordained in the Church of England and appointed to his position in Newgate by the Lord Mayor and Court of Aldermen in London, the Ordinary straddled the temporal and spiritual realm as precariously as his congregation of the condemned. His interpretation of crime and sin reaffirmed the ordering of the body politic beneath its dual heads, the King and God, and validated the definitive dichotomies of good and bad, legal and illegal, moral and immoral, the merits of the saved and the sins of the damned. Because executions in London were attended by large crowds of people, the scripted performance of the condemned invited the body politic to witness and affirm the legitimacy of this enacting of civic and divine justice.

The performance of public punishment in seventeenth-century England existed as part of a larger early modern worldview that connected the temporal world with the

⁸ Ordinary of Newgate’s *Account*, 16 March 1677.

spiritual one through a complex web of hierarchies, or chains, and allowed every individual to understand his specific role in the body politic and its attendant expectations. The role of the condemned was to exemplify what was criminal and offensive to the moral, social, or religious order mandated by that worldview.⁹ The act of condemnation and execution, from the courtroom drama to the condemned held at Newgate and the procession through London to the gallows, was a legally prescribed ritual intended to publicly legitimize the proceedings and the authority that sanctioned them. When the crowd gathered to watch Sadler die, they were to understand that he did so not just for stealing a mace from the Lord High Chancellor. Rather, Sadler's crime threatened monarchical authority, and his sins challenged divine authority. The metaphorical universe in which these dual authorities were linked collapsed into a single plane in the body of the condemned, ending with a spectacular final act that embodied authority in all its forms. The performance and intention of execution was familiar, maybe comforting, but it would change as a result of the Glorious Revolution of 1688. The implications of this event on the conceptions of authority, and the justification for its display, called into question the basic principles of the Ordinary's *Account*. If the head of the body politic was no longer the arbiter of God on earth, then what truths were left to the Ordinary?

Because the Ordinary both interpreted authority and reinforced its validity for the condemned and for his audience, his *Account* changed in order to reflect the type of

⁹ See Richard Van Dulmen, *Theatre of Horror: Crime and Punishment in Early Modern Germany*, trans. Elisabeth Neu (Cambridge: Polity Press, 1990) for the best articulation of this general argument.

authority claimed by those who found their power expanded after 1688.¹⁰ The English had metaphorically cut off the head of their body politic and with it, their foundational explanations and justifications for authority and obedience. The traditional ruling elite now had to cement their authority, without the benefit of a divine-right mandate once claimed by the King. Without this explanation, there was an ideological vacuum at the top of the body politic that threatened to undermine order and stability in a moment of tense political transformation. This space would be filled by a new ideology that allowed the traditional ruling elite to explain the political and social order without explicitly claiming that authority and obedience to that order relied on a divine-right monarch.

¹⁰ The question remains in regards to the extent to which the Glorious Revolution created a wider opening into political power for the English body politic, but there are convincing arguments that the Revolution was a top-down endeavor. J R Western asserts the old guard landed gentry joined a cause hitherto unthinkable in deposing King James, and justified their support for William and Mary with the belief that this signaled not a radical change, but was rather a protection of “certain established rights and institutions threatened with encroachment,” *Monarchy and Revolution: The English State in the 1680s* (Totowa, NJ: Rowman and Littlefield, 1972), 1.; W.A. Speck argues that the Glorious Revolution was a reassertion of elite power over lower sorts, as had occurred in both the English Civil War and Interregnum, *Reluctant Revolutionaries: Englishmen and the Revolution of 1688* (Oxford: Oxford University Press, 1988). While the cause and course of this affirmation of elite power were similar to both events, the scope of authority claimed by the traditional ruling elite after 1688 was much more extensive than that of post-Restoration England, as loath as the ruling elite were to admit it. J.C.D. Clark compares the ruling elite in post-Revolution England to the Roman patrician class in *English Society, 1660 – 1832: Religion, Ideology, and Politics During the Ancien Regime* (Cambridge: Cambridge University Press, 2000).

Part of the problem for the traditional ruling elite who saw William and Mary as perhaps more amenable to ensuring and enforcing their traditional rights of land, property, and influence was that they had aligned with a group of men who they usually denigrated as inferior – namely, the commercial and professional classes who mostly identified themselves as Whigs. The second half of the seventeenth century witnessed the rise of these classes within the creation and fluctuating popularity of the Whig party, populated by the second sons of lesser gentry and up-and-coming merchants and financiers who could make a credible claim to political power based on their contribution of immense wealth to England through trade. Because their wealth did not rest in land, but in more abstract currency, they were continually excluded from what they saw as their due in Parliament. Charles II’s almost continuous trade wars with the Dutch, and the long shadow of Louis XIV and his vision of a French Catholic Europe necessitated the creation of a larger bureaucracy of administrators by the early eighteenth century. John Brewer argues that the creation and consolidation of the English fiscal-military state occurred after the Glorious Revolution (and as a result of its constitutional settlement), and solidified the continued importance of middling administrators, financiers, and government officials, *The Sinews of Power: War, Money, and the English State, 1688 – 1783* (New York: Alfred A Knopf, 1989).

Implementation of this ideology was impeded by two related crises. The overarching problem created by the ideological vacuum after the Glorious Revolution was a crisis of authority. In order to exercise a similar authority as the monarch, this group built upon the foundation of traditional and familiar methods of enforcing obedience and affirming authority. One of those methods was the public execution. Its constant presence in the social, moral, and religious life of seventeenth-century England provided by far the most spectacular and useful space to define and perform authority. The performance of the condemned “anchored the gallows in a particular moral universe,” and so their acceptance of authority was crucial to its justification.¹¹ Because the Ordinary already acted as the liaison between authority, condemned, and the people, his *Account* was one important source through which to define and affirm the authority of the post-1688 State. His congregation of the condemned thus became unwitting guarantors of the righteousness of the English constitutional experiment. A crisis of legitimacy exacerbated this crisis of authority. In order to justify the political consequences of the Glorious Revolution, those who now exercised authority had to do so using a language of inclusion without encouraging the “tyranny of the multitude.”¹² The Ordinary and his *Account* were involved in this struggle as well. The Ordinary’s attempts to convince the condemned of the legitimacy of an authority who expected from them the same performance, but for different reasons, were met by stubbornness, confusion, and sometimes outright rejection.

¹¹ Randall McGowen, “The Body and Punishment in Eighteenth-Century England,” *Journal of Modern History* 59 (1987): 652-679, 655.

¹² Jonathan Scott, *England’s Troubles: Seventeenth-Century English Political Instability in European Context* (Cambridge: Cambridge University Press, 2000), 26.

Three distinct changes in the Ordinary's *Account* after 1688 illustrate the role of the condemned in defining the limits and possibilities of political power, justifying the exercise of authority over a body politic without the explanatory power of a divine-right mandate of obedience, and defining the boundaries of inclusion in a body politic that had proved capable of willing itself into existence. First, the justifications for condemnation in both the *Account* and official court records emphasized the damage done to the "people" and to "England" by a criminal act, rather than directing that harm to God and King. This distinction served to include more of the body politic in the responsibility of punishment, and more firmly exclude the condemned from rectifying that injury by submitting to the will of God, and by extension, the monarch. However, because those who perceived themselves most harmed by crime were not those most likely to meet their end at Tyburn, the Ordinary emphasized that poverty was not a valid excuse for crime. Idleness was an active decision made by the condemned, rather than a consequence of other sins. The Ordinary thus attempted to further bar the condemned from the sympathy of their socioeconomic group by extending the notion of deserving and undeserving poor to the condemned as worthy and unworthy of salvation.

Second, the Ordinary was increasingly reluctant to accept bodily expressions of remorse as signs of repentance. In place of the corporeal signs of repentance was an increased reliance on discerning the workings of the heart, particularly in establishing what the Ordinary called "Heart-purity". One possible explanation for this replacement is that in place of an authority centered in the literal head of the body politic, the body politic would bear the responsibility of policing itself. If the King was the head of the

body politic, then the heart represented the body politic within that traditional metaphor. Just as the body politic had been freed from the “tyranny of memory, from the need to keep repeating its own past,” the heart could experience a similar liberation from the prison of Original Sin.¹³ The Ordinary’s conception of “Heart-purity” imbued the heart with active faculties that in turn supported his attempt to distinguish the sins of the condemned as willful decisions meriting their violent expiation from society at the gallows.

Finally, the Ordinary included a more detailed and graphic description of the execution after 1688. The amplification of public execution and public repentance within the *Account* acknowledged the concern and influence of a wider body politic whose own participation in government was hypothetically expanded after 1688. The Ordinary’s emphasis on the physical aspect of execution served two purposes. First, the assertion of control over the body in execution was made clearer to a larger audience of English subjects who did not attend the execution. Second, the constitutional implications of the Glorious Revolution had serious consequences for understanding the rationale for obedience. Ambiguity in this regard was clarified in the legal system and at Tyburn through the performance of the condemned. The execution was of vital importance to a group whose claims to authority could easily become suspect. Despite the fundamental changes to the social and political fabric of England after the Glorious Revolution that would eventually lead to a more democratic, less hierarchical, and wealthier nation than anywhere else in the world, the public execution did not go away. Rather, the eighteenth

¹³ Ibid.

century would see the rise of England's infamous Bloody Code, under which a wider array of property crimes merited capital punishment, and whose existence would eventually push the limits of enlightened sensibility. If the professed purpose of the *Account* was to provide a "warning to all that read it to avoid the like wicked courses" of the condemned, then its underlying intent was to make *something* visible. Before 1688, the *Account* served to provide the physical evidence of the truth of godly and monarchical authority. But when monarchical authority slowly lost its persuasive power after the Glorious Revolution, the public execution became the space where the physical evidence of authority was discerned by all, rather than relying on the Ordinary's interpretation of that evidence. The *Account* came to embody two logics of authority, one that harkened back to the idea of control achieved through physical brutality, and a second logic that reflected a notion of authority resting in the people.

There are obvious limitations to a study of political, legal, and social changes in England after 1688 relying almost exclusively on one source.¹⁴ Another possible problem lies in the fact that the Ordinary's *Account* has, until recently, been largely ignored as a source to understand social and political change, because it appears full of "brevity, fabrication, circumstantial realism, luridness and moral pretentiousness."¹⁵ It is almost certain that the "facts" as presented by the Ordinary may not be necessarily accurate, the words and actions of the condemned stretched or omitted, but it is precisely for this

¹⁴ This type of single-source case study has been, I think, successful in the past. See Emmanuel LeRoy Ladurie, *Montaillou: The Promised Land of Error* (New York: G. Braziller, 1978), Robert Darnton, *The Great Cat Massacre and Other Episodes in French Cultural History* (New York: Basic Books, 1984).

¹⁵ F.W. Chandler, *The Literature of Roguery* 1 (New York: Houghton and Mifflin and Co., 1907), 181.

reason the *Account* must be taken seriously.¹⁶ In its brevity there was intention, its fabrication detailed expectations, the circumstantial realism a blueprint for the construction of a new society, its luridness provided a stark and unpleasant reality wherein the Ordinary's moral pretentiousness completed the diligent work of exemplifying and warning. The Ordinary's *Account* is a valuable cultural artifact because the narrative was conditioned by political, theological, and social needs, all of which required a specific quality from the condemned in order to prove the legitimacy of authority. By no means should the *Account* be taken as *the* metric by which society measured its successes or failures, but it cannot remain ignored as an unique source describing how governmental authorities relied on the most vilified population in English society to validate themselves. The changes in the *Account* after 1688, outlined above, run parallel to other shifts in the wider body politic and in government, which points to a concerted effort by external authorities to use both the *Account* and the condemned as tools for a larger social project.

Limitations aside, this study will be a valuable contribution to the vast historiography of the Glorious Revolution. Historians have widened their views of this event from the rather narrow analyses of triumphant and teleological Whig interpretations which focused almost exclusively on the implications of the Glorious Revolution on party and politics, but very few, with the exception of Beattie, have addressed its direct impact

¹⁶ Peter Linebaugh agrees that the Ordinary's *Accounts* cannot be considered as factual in regards to the expressions of the condemned, but finds that the biographical information provided by the Ordinary can be verified. Peter Linebaugh, "The Ordinary of Newgate and His Account," in *Crime in England, 1550-1800* ed. J.S. Cockburn (Princeton: Princeton University Press, 1977). Andrea McKenzie in her excellent work offers a far more balanced and nuanced approach to the Ordinary's *Account*. McKenzie, *Tyburn's Martyrs*, 31-45, 121-152.

on capital punishment.¹⁷ Furthermore, there has been no systematic study of the role played by the condemned and their bodies in expressing and solidifying the social, political, and legal intentions of authorities immediately after the Glorious Revolution. This seems a strange oversight given the centrality of execution, its increased usage after 1688 well into the eighteenth century, and early modern views of the body as an expression of the cosmological order. Because the condemned were disproportionately members of the lowest social orders, their experiences as members of the English body politic were often overlooked until their crimes brought them suddenly to the attention of other members of society. Their voices were also buried in the official historical record, and their concerns set aside until useful. This chapter introduces a novel interpretation of the Glorious Revolution by examining its effects on the condemned, how their bodies were used as the testing ground for larger social projects, and whose experience of their own sins and crimes was molded by the broader forces scrambling to use their criminal behavior and their condemned bodies for their own ends.

**“Expected from Persons in their Conditions”: Finding the Body, Assessing the Soul
in Early Modern England**

The public execution intended to bring the individual subject into the graphic display of justice as created and handed down by the rulers of the body politic of which each subject and his/her body were a part. In the behavior of the condemned before, during, and the display of his/her body after execution, the individual subject as witness

¹⁷ J.M. Beattie, “The Cabinet and the Management of Death at Tyburn after the Revolution of 1688-1689,” in *The Revolution of 1688-1689: Changing Perspectives*, ed. Lois G. Schwoerer, 218-233 (New York: Cambridge University Press, 1992).

became active participant and guarantor of a particular worldview that codified power over all bodies through the violent expiation of the condemned body. The execution connected the lowest common denominator of the body politic, the condemned, with the highest link in the Great Chain of Being, the monarch, and did so through the metaphorical links between body and soul, body and body politic, all situated within the larger early modern context of the Great Chain of Being.

The body and the soul of the criminal, as well as those of ordinary English people, were linked through the Anglican understanding of the Holy Trinity, the nature of Original Sin, and the doctrine of repentance. Because the Anglicans believed that God made Jesus in the taking of “man’s nature in the womb of the blessed Virgin, of her substance: so that two whole and perfect natures, that is to say, the Godhead and manhood, were joined together in one person,” then the role of man as having one foot in the heavens and one on earth was abstract but imperative for maintaining hierarchy and order.¹⁸ To move closer to God was possible, but impeded by the effects of the Fall, and this doctrine too attempted to negotiate the spiritual and temporal realms. Anglicanism held that “Original sin standeth not in the following of Adam...but it is the fault and corruption of the nature of every man that naturally is engendered of the offspring of Adam.”¹⁹ This was an organic understanding of Original Sin, based on the understanding that sin was *naturally engendered* of Adam’s children and the effects of original sin were

¹⁸ Anglican Book of Common Prayer, 1662

¹⁹ Ibid.

passed *seminally* to every generation.²⁰ As Adam was the biological ancestor of humanity, he was the actual “head” of the universal body politic, and the King was the head of the body politic within his realm in his role as father. Because of Adam’s sin and its biological presence in every man, humanity “is of his own nature inclined to evil...and therefore in every person born into this world, it deserveth God’s wrath and damnation.”²¹ Good works or right living did little to assuage the consequences of this inheritance; unless one had been baptized into the Anglican Church, the divine grace of God was withheld which in turn effected the use of human’s (albeit limited) free will. The Anglican tradition of justification before grace allowed for the counting of good works, those visible expressions of salvation, as when they “follow after justification” do they “spring out necessarily of a true and lively faith.”²²

In case this chain be misunderstood, the rhetorical model of the corporeal body provided an extremely useful visual representation of an otherwise abstract truth. The monarch was the “head” of the body politic, and arbiter of the divine Father’s will. Man might better understand God but could never be truly divine because of corporeal limitations of their bodies. Thus, the need to explain sacred kingship and the necessity of obedience to the monarch through the King’s two bodies. As Ernst Kantorowicz demonstrated, this theological concept separated the monarch’s mortal body from that of his immaterial, invisible, and sacred body. Within this immortal body of the king lay the

²⁰ See Michael Heyd, “Original sin, the Struggle for Stability, and the Rise of Moral Individualism in Late Seventeenth-Century England,” in *Early Modern Europe: From Crisis to Stability*, ed. Philip Benedict and Myron P. Gutmann, 197 – 233. (Newark: University of Delaware Press, 2005).

²¹ Anglican Book of Common Prayer, Article IX, 1662.

²² Anglican Book of Common Prayer, Article XII, 1662.

body politic who, according to seventeenth-century English jurist Edmund Plowden, “cannot be invalidated or frustrated by any Disability in his [the King’s] natural body.”²³ While the King’s corporeal body dies, the body politic lives within the immortal body of kingship. Obedience to the living monarch, then, might secure a similar immortality for the layman, since the monarch’s mortal body was a visual link to God’s promise in the next world. The connection between God, monarch, and subject in the body politic was replicated across English society, and supported by the need to physically represent what was known to be spiritually true. In religion, the monarch was Supreme Head of the Church of England, and it was in the physical Church that the ordinary person reaffirmed their connection to the divine. A victim of scrofula (tuberculosis) sought the royal touch as a direct cure from God. Parliament, the political representative of the body politic, sat at the pleasure of the monarch. Law and order was carried out in the King’s name since it was he, not the judges, who could claim the legitimate sanction of God to reaffirm the justice of legal proceedings and sentencing.

The condemned provided an incredible opportunity for not only the government, but also for the Church, to make real its theological conceptualization of the temporal and cosmological worlds. Here was an exemplary demonstration of the nature of divine grace and the necessity for repentance, hyper-condensed into a few days and culminating in a spectacular visual display of God’s awesome power, as well as that of the Anglican Church in bringing forth that power. The urgency of salvation brought on by condemnation perfectly encapsulated the ability of man to straddle the temporal and

²³ Ernst K Kantorowicz, *The King’s Two Bodies: A Study in Medieval Political Theology* (Princeton: Princeton University Press, 1957), 9.

spiritual world, and the possibility of success or failure of Anglicans in their attempts to reach the latter was presented in the story of each criminal. At Tyburn, the condemned “surrendred their Souls to the Mercies of God, and their Bodies to Execution.”²⁴ The execution presented the doomed body and its otherwise invisible soul, the health of which for salvation could only be determined by the performance of its mortal captor, the flesh. As Ordinary, Samuel Smith capitalized on the metaphorical potency of the corporeal body, an analogy he brandished frequently and with zeal.

The Ordinary and his *Account*

The Ordinary of Newgate was first appointed by the Anglican hierarchy until the City of London gradually came to control the office from 1679 through 1684.²⁵ At each level of the process in carrying out the justice of England, the links in the Great Chain of Being relied on the careful production and maintenance of straddling the line between this world and the next. Power over bodies was concentrated at the top of this chain, in the hands and wisdom of the King, and flowed downwards through the body politic

²⁴ Ordinary of Newgate’s *Account*, 19 December 1677.

²⁵ A committee of London aldermen in 1656 were set to sort out the particulars of this relationship between the Anglican Church, the City, and the monarchy after the prisoners of Newgate and Ludgate complained of “being restrained of their liberties ... in the publique preaching of Gods Word.” The committee proposed that a minister be made in Ordinary to the condemned in Newgate, and that he be paid 350 pounds a year out of the City’s treasury for his maintenance. Concern for the prisoners’ “liberties” in this respect stemmed from recognition of the relationship between the earthly and heavenly worlds. The prisoners served their temporal sentence in order to rectify the social imbalance caused by crime. At the same time they were expected to right a similar deficit in their relationship with God. However, the City’s willingness to address prisoners’ complaints served a more immediate purpose in assuring the wider body politic that the King’s justice flowed from a righteous place and indeed was responsive to the rights of the free-born English as well as Christian mandates. In 1666 London’s Court of Common Council directed the rebuilding of the city’s prisons after hearing grievances from their inhabitants, and charged inquiries into the abuses of prisoners by attorneys, “sitters” and sheriffs “to [the] great oppression of Prisoners.” If the King as arbiter of temporal and divine justice to those below him could not protect the liberties of the lowest in the body politic, then the unquestionable source of his power could be cast into doubt. *Journals of the Court of Common Council*, COL/CA/01/01/041X, ff. 144-146, LMA.; Ibid., ff. 169, 209, 242, 247.; CLA/035/02/028, LMA.; COL/CA/X109/81, f. 120, LMA.; Ibid., f. 253.6.

whose acceptance of this worldview was demonstrated by the performance of deference and obedience through their own bodies. The Ordinary's most important task was to explicitly interpret the actions and performances of the condemned to emphasize and enforce the monarch's possession of power over the bodies of all his subjects.

In addition to upholding the tenets and mandates of the Church of England, the Ordinary's work was highly regulated by his secular superiors, which meant that his *Account* had to reflect the authoritative needs of the monarch as well as the City of London. As with any other publication before the Licensing Act lapsed in 1695, the *Account* had to be approved by royal authority and printed by a licensed royal printer. After 1684, the *Account* was published by the authority of the City of London, moving from a serialized format to an official publication wielded as an arm of the City's authority over law and order within its bounds.²⁶ These multiple layers of authority over his duties were reflected in the *Account* as Smith often connected the disorder and temptations of London with larger threats to the stability of the entire kingdom.²⁷ Furthermore, the *Account* was published in tandem with the *Old Bailey Proceedings* which were widely regarded as accurate reports of trials at the central criminal court in London, so Smith's assessment of the condemned could not question the court's judgment of guilt or the wisdom of its sentence. At the same time, the Ordinary was called upon to provide guidance in the amelioration of sentencing when the monarch felt

²⁶ See McKenzie, *Tyburn's Martyrs*, 124-125.

²⁷ Part of this move to establish official authority over the *Account* probably stemmed from the belief that the City held inviolable rights separate from that of the King, and that the Ordinary's "parish" was in Newgate Prison which fell squarely under the City's authority. Records of the Court of Common Council which might provide light on the move are not available.

moved to dispense his mercy. This meant that the condemned, too, had a stake in performing repentance and remorse for the Ordinary, and to do so in a way that reflected the Ordinary's dual roles as spiritual adviser and political servant.²⁸ Finally, the Ordinary himself profited from publishing the *Account*, and so literally could not afford to make false claims of repentance on the part of the condemned or report erroneous information because to do so would mean dismissal from his office.

Smith thus walked a tenuous line between multiple authorities, that of the monarch, the government of London, and the people who read the *Account*. The role of the body politic, to whom the *Account* was specifically targeted, was the most important and certainly contentious locus of power in the whole process of justice and execution.²⁹ It was the bodies of this public that were to be controlled by the power of the monarch and subordinate authorities, and to whom the condemned provided the visible consequences of challenging that authority. The Ordinary addressed this transgression in his *Account*, and reasserted the "protecting care of Omnipotent providence" in the King's justice and connected the restraining forces of monarchical power over bodies as a divine

²⁸ The condemned could and often did petition the monarch for mercy in sentencing, and the attention paid to these petitions is surprising. Once a petition was received by the Privy Council, it was reviewed and deemed worthy or not of consideration by the monarch. This process could involve contacting the justice in charge of sentencing who might have to answer charges by the condemned that he/she was unjustly tried, falsely accused, or convicted on bad evidence, to which the justice usually replied that all laws had been followed. Those who dealt most closely with the condemned including jailers, various ministers, former employers, and especially the Ordinary were then called to provide information regarding the character of the condemned and if this proved satisfactory, the monarch was advised to commute the sentence of death in one way or another, usually by transportation in the case of simple hanging or to a less ignominious execution if the crime was more severe. For examples of these petitions, see British Library, Add MS 61617.

²⁹ See Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (London: Allen Lane, 1991) and "The Tyburn Riot Against the Surgeons," in *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Hay et al., 65-117 (New York: Pantheon Books, 1975).

mandate “to keep the Sons of Men from running headlong on their own destruction.”³⁰ In crime, as in sin, violation of this benevolent restraint was an unnatural affront to the innate order of the world, which in turn vindicated “not only painful, but likewise shameful Deaths.”³¹ Compliance to this order could not be expected from a population who did not know the rules, and so aside from the constant display and proclamation of the power held by the monarch as head of the body politic, concrete lessons were provided by the condemned. Thus it was the public execution paired with a consistent reminder of norms and rules in the narrative of the *Account* that sustained a worldview ordered strictly below the place from which power flowed.

The Ordinary’s *Account* served not only to reaffirm this hierarchy and so ensure stability, but to calm the fears of a middling-class of Londoners who felt themselves especially vulnerable to the insidious machinations of the lowest class of subjects, the social stratum from which most of the condemned were drawn. The City’s merchants, traders, and financiers made frequent calls to both the Court of Aldermen and Parliament to come up with more effective means of punishing those criminals who violated their right to security in property.³² The frequency of trials at the Old Bailey or Middlesex Sessions, and the types of crimes prosecuted at any given time, paired with the publication of both the Sessions Papers and the Ordinary’s *Account*, could either edify this middling population or send them into a fit of anxiety over what J.M. Beattie

³⁰ Ordinary of Newgate’s *Account*, 21 January 1679.

³¹ Ordinary of Newgate’s *Account*, 21 January 1679.

³² For more on this perception of crime, see J.M. Beattie’s introduction in, *Policing and Punishment in London, 1660-1750* (Oxford: Oxford University Press, 2001).

describes as “the crime problem.”³³ The visibility of justice against thieves, house-breakers, disobedient servants, pickpockets, highway robbers, prostitutes, and murderers counteracted the otherwise anonymous nature and uncertainty of both crime and criminals in London. The Ordinary, as the quasi-government official closest to the condemned, had a certain responsibility to prove that crime was under control by *exposing* the criminal and the nature of criminality.

Smith completed this task through the formula he applied in the *Account*. The introduction of the *Account* immediately situated the malefactor as the dangerous and pitiable “other”. The condemned were placed on the other side of a spectrum ranging from right to wrong, as they were “secure Sinners” who had transgressed against man’s temporal authority, an extension of God’s. The introduction also connected the spiritual and temporal worlds, emphasizing the infallibility of God and his realm since “Judges are but men that must soon die themselves.” If man’s judgment erred in the sentence of condemnation, the Ordinary reminded his audience, “with what terror shall the guilty Soul stand, O God, before thy dreadful Tribunal at the last and General Assizes!”³⁴

It is important to keep in mind that while reprieves did come down from the Old Bailey, more often than not the criminal who found himself under the Ordinary’s care was going to meet his end at Tyburn. The Ordinary’s task was two-fold, since the criminal’s acknowledgment and acceptance of the state’s justice was a prerequisite for the salvation of his soul. To question legal condemnation was akin to doubting the

³³ Ibid.

³⁴ Ordinary of Newgate’s *Account*, 17 April 1678.

validity of God's law, a logic the Ordinary frequently employed as "It is very deplorable to consider . . . that although the Lord bring every Session his Judgment to Light . . . yet the unjust know no shame."³⁵ Although not quite an admission of failure in deterrence, the Ordinary compensated by emphasizing the certain guilt of the condemned, if not as criminals then certainly as sinners whose "Countenance condemn'd them before the Judge."³⁶

The Ordinary then made some notes in regards to the sermons delivered to the condemned that outlined the spiritual and legal mandates violated by the criminal and bolstered the validity of State justice with Scriptural support. The Ordinary "constantly visited" the condemned and "(twice every Day) brought [the condemned] up to the Chapel of Newgate" where the Ordinary "read and expounded the Word of God to them, endeavouring both to instruct them in the excellent Duties of the Christian Religion, and perswade them to the careful practice thereof."³⁷ Because of the finality of their lives, "being but a few minutes on this side [of] Eternal Destruction," the Ordinary's sermons contained more than the usual dose of hellfire. Given the literal nature of spiritual metaphors in seventeenth-century England, the sermons offered their fair share of allusions to the body. The fast-track to salvation was only possible when the condemned "with broken hearts and bended knees" accepted their crimes with humility.³⁸ Here, too,

³⁵ Ordinary of Newgate's *Account*, 22 May 1686.

³⁶ Ordinary of Newgate's *Account*, 17 April 1678.

³⁷ Ordinary of Newgate's *Account*, 28 May 1686.

³⁸ Ordinary of Newgate's *Account*, 23 January 1678.

the Ordinary measured his success by identifying physical reactions to his rhetorical efforts. William Johnson “At the Sermons on Sunday . . . behav’d himself very reverently” and the Ordinary noted with satisfaction that “in the anguish of his Spirit, he . . . interrupt[ed] the Preacher with the loudness of his sighs and groans.”³⁹

Next came a description of the criminals who “came now to suffer,” noting only those particulars of their lives that brought them to die at Tyburn.⁴⁰ The Ordinary almost never recorded an instance where the crime for which they were condemned was the very first misstep in their lives.⁴¹ It did not ultimately matter whether or not the criminal had been “brought up with a Religious Education”, of “pretty good Parents”, or born in Ireland or England.⁴² Crucial to the narrative was the first cause of criminality and the subsequent and inevitable steps toward condemnation. One of the more exemplary demonstrations of this journey was Francis Nicholson whose parents “lived in good reputation” and gave him “good Education.” More astounding to the Ordinary, not a single one of his relatives “were ever cast into any Goal or Prison before [*sic*].” While Nicholson was condemned for murdering John Dimbleby, he was not brought to this act randomly. Rather, he first neglected his duty to his mother, which “caused [him] to fall into the acquaintance of ill company.” His new friends were drinkers who encouraged Nicholson “to spend [his] time and money vainly at the Alehouse.” Time at the tavern led

³⁹ Ordinary of Newgate’s *Account*, 16 March 1677.

⁴⁰ Ordinary of Newgate’s *Account*, 7 March 1679.

⁴¹ Those whose condemnation did seem to be their first run-in with the law were almost always reprieved.

⁴² Ordinary of Newgate’s *Account*, 6 May 1679.; Ordinary of Newgate’s *Account*, 26 May 1684.

Nicholson to “breaking the Sabbath day” and then to the “stealing of an Horse.” Worse, though, was that through “all this [he] was not sensible of [his] miserable condition...thus provoking God by [his] Sins.” Only after the downward spiral initiated by the first sin of temptation in “ill company” was Nicholson able to commit murder. A crime so heinous could only be understood within this context. Nicholson admitted (and the Ordinary accepted) that there is “no reason why I did it, but the instigation of the Devil tempting to it when I was drunk, and not having the fear of god [God] before mine Eyes, and my senses gone with drink, I was thus overcome of Satan, and took up my Hatchet...”⁴³

Nicholson’s narrative of his own downward spiral was supported by evidence of guilt written in bodily terms, and gave corporeal qualities to both his thoughts and spirit as a way to demonstrate his overwhelming remorse and acceptance – all signs of a true penitent. Recalling the murder, he said “my Soul bleeds to think of it.” After his condemnation he was less scared of dying than “my Soul dead, stupified, under the terror and wrath of God.” Thanks to “the help I have had from the Ordinary,” Nicholson found his “heart dayly more and more humbled” and his “Soul move[d] more lively in me.”⁴⁴ Nicholson’s story as interpreted by the Ordinary reveals the explanation of criminality before 1688, where the comparatively minor sin of disobeying one’s parents initiated a chain of events leading to murder, “so natural it is for one sin to beget another.”⁴⁵ In the Ordinary’s conception, murder was obviously the more “heinous”, but neglecting natural

⁴³ Ordinary of Newgate’s *Account*, 27 October 1680.

⁴⁴ Ordinary of Newgate’s *Account*, 27 October 1680.

⁴⁵ Ordinary of Newgate’s *Account*, 7 March 1679.

duty and obedience to the natural order was compared to “the guilt of Adams Sin,” which the criminal “adopts...voluntarily to become his own, by treading in the same steps of Disobedience.”⁴⁶ The hierarchy was established: parents, master, king, God. As criminals violated each part of the chain through specific behaviors (drinking, swearing, forgoing the Sabbath, etc.), they “hardened their own Hearts.” This was a very physical process, causing so much pain, that the soul became “deaf” to God’s signals. The condemned had to prove their repentance so that the “Lord would remove their Stupidity.”⁴⁷

The final part of the *Account* focused on the criminal’s earthly end. The condemned were “put into Carts, and drawn to the Place of Execution” through the crowded streets of London. Onlookers gazed on their bodies and their comportment, and the Ordinary expected they were “very penitent all the way they went,” although this was not always the case.⁴⁸ To “publicly suffer” before 1688 was to behave in a manner fitting a true penitent, maybe “holding a Book in his hand” or “elevat[ing] his eyes to Heaven.”⁴⁹ The condemned were to demonstrate by their words and actions prior to execution that they accepted and acknowledged the justice of the State as divine justice. This usually meant that “they exhorted the Spectators to take warning by their untimely Ends of the Effects of Sin” and “prayed earnestly” before their execution.⁵⁰ Those

⁴⁶ Ordinary of Newgate’s *Account*, 10 July 1684.; Ordinary of Newgate’s *Account*, 23 October 1685.

⁴⁷ Ordinary of Newgate’s *Account*, 25 October 1686.

⁴⁸ Ordinary of Newgate’s *Account*, 15 December 1685.

⁴⁹ Ordinary of Newgate’s *Account*, 19 December 1679.

⁵⁰ *Ibid.*

condemned for high treason were the only ones for whom the execution was graphically detailed as they were burned at the stake, a punishment more spectacular than hanging. Jane Pratt made “sad moans and lamentations” when she saw the stake, and “as soon as the same was lighted, the Block was put away, and she strangled by the Rope; with which and the smoak and flame, her breath was taken away, and her body soon after burnt to Ashes.”⁵¹ Likewise, those criminals who had not yet repented could be shown the physical object of their demise, such as the gibbet, and there be brought to the all-important spiritual change. John Wise denied his guilt all of his time in Newgate, and on the journey through London to the gibbet in Piccadilly “he called for half a pint of Canary, and Drank the same off,” behavior that did not bode well for his eternal salvation. But, “When he came to the Gibbet ... the sight of that Fate which so nearly attended him, struck Terror into his Heart, and made him Confess.”⁵² Despite these extraordinary examples, the typical execution was usually presented simply as the fitting and unavoidable end to an “ill Life,” and the final words of the condemned reinforced this conclusion.⁵³

The entire process was itself an almost perfect example of the seventeenth-century worldview and conceptualization of the relationship between body and soul. The introduction functioned as a commonly shared understanding of what was right and what was wrong; this was the metaphorical universe where all was ordered and the individual

⁵¹ Ordinary of Newgate’s *Account*, 17 April 1678.

⁵² Ordinary of Newgate’s *Account*, 17 October 1684.

⁵³ Ordinary of Newgate’s *Account*, 6 March 1678.

accepted this knowledge because of its seemingly self-evident truth. So the *Account* existed as an understood “Warning-piece,” the “lewd Courses” about to be described signified something true about how the world worked, and the “Ignominious End” was both literal in actual death and eternal/universal indicating the possible location of the soul when the body died.⁵⁴

The Ordinary’s sermons provided the rules of play. God made man in his image, body *and* soul, and inscribed “divine Impressions” on the soul to “excite the heart to this fundamental Duty” of understanding the dictates and exercise of “all found Christianity.”⁵⁵ The metaphorical universe in which the game was played was experienced physically by the pieces. When “My wounds stink and are corrupt, because of my foolishness” and “continued actual Transgressions against the holy Laws of God...become abominable, and as a loathsome stench in the Nostrils of that pure Majesty and all good men,” then God’s mercy “healeth the broken in heart, and bindeth up their wounds.”⁵⁶ The sermons were not unlike those preached in churches all over England which reiterated God’s law and the duties of every Christian in seeking “sincere Repentance.”⁵⁷ Criminals’ repentance thus offered a condensed and intense example of the fleeting and secondary nature of temporal life in the much broader context of an eternal fate.

⁵⁴ Ordinary of Newgate’s *Account*, 19 December 1677.

⁵⁵ Ordinary of Newgate’s *Account*, 10 June 1685.

⁵⁶ Ordinary of Newgate’s *Account*, 6 September 1678.

⁵⁷ *Ibid.*

Descriptions of the criminals “Behaviour under those fatal Circumstances”

educated the audience as to the physical cues of sin and repentance, grounding the abstract in the tangible expressions of another person who was *not like me* but one minor sin away from *who I might become*.⁵⁸ Thomas Coxe “bewail’d himself as a great sinner,” and Edward Kirk offered no excuse for his crime but that “my Passion being above my Principle.”⁵⁹ Growing “negligent of his Duty to God,” John Hutchins fell to the “Bursts of his own Heat.”⁶⁰ It was appropriate to express repentance with tears, to acknowledge the backslide to sin as giving in to the physical passions instead of the more difficult path of Christian principle. “Notorious” John Dell exhibited the “marks of a deplorable Impenitency.” Segregated from the other condemned, Dell said that even if “put to the Torture...he should be sure to stand his Ground.” Instead of participating in prayer, “he would retire into a corner, wrap himself up in his Cloak.” As the Ordinary preached, Dell “insolently interrupted him in the publick Congregation.” At his wit’s end with Dell, the Ordinary sent other ministers to reach him but he “sullenly received them” and replied “with a scoffing kind of Atheistical humour” to one who had just finished warning Dell of the agonies of Hell. The acceptable portrayal of humility, taking off one’s hat at worship, was also refused by Dell who argued that “He should catch cold, or a Chinese-cough, if he pulld off his Hat.” Dell “continued obstinate to the last,” responding to the Ordinary’s final push for a confession with “What shall I confess for, it is not in your

⁵⁸ Ordinary of Newgate’s *Account*, 9 May 1679.

⁵⁹ Ordinary of Newgate’s *Account*, 7 March 1679.; Ordinary of Newgate’s *Account*, 10 July 1684.

⁶⁰ Ordinary of Newgate’s *Account*, 17 December 1684.

Power to Pardon me.” At Tyburn, he said nothing, “but in a stupid manner was Executed.”⁶¹ Even dying while in Newgate was a sure sign of guilt. One unnamed woman was condemned for “murdering her Bastard Infant” but died the day after her sentence. The Ordinary reasoned that she caught a fatal cold during “the unnatural designe of exposing her Childe (as she did) in the streets,” and though she escaped “an Ignominious by an untimely death,” her soul’s final resting place in Hell was certain because she was not properly prepared for her demise.⁶²

The execution was the culminating expression of the link between temporary body and eternal soul. In its intentional visibility, the event was the explicit connection between the temporal and spiritual worlds. The condemned “said...those common, but too much neglected Exhortations,” and provided the story’s end before its narrative was revealed in the *Account*. They warned of “Ill Company” and of “sensual pleasures,” and exhorted the crowd to “continually keep a reverent fear of God.”⁶³ The criminal body, displayed as it was in a place constructed for this message, functioned as the poignant reminder of the corrupting flesh that once indulged could lead only to one end. If the Ordinary did not comment on the particulars of execution, it was because of the body’s temporal nature. What need was there for strangulation, of the embarrassing and natural bodily functions attendant to hanging, and the actual experience of watching someone die a slow and painful death, when it was the soul and its flight that mattered most? Instead,

⁶¹ Ordinary of Newgate’s *Account*, 19 December 1679.

⁶² Ordinary of Newgate’s *Account*, 23 January 1678.

⁶³ Ordinary of Newgate’s *Account*, 19 December 1684; Ordinary of Newgate’s *Account*, 6 September 1678.

the Ordinary only noted that the condemned “submitted to the Sentence, and taking their leave of all things in this world, were wasted into the unfathomable Regions of Eternity.”⁶⁴ Mortality was certain, but a shameful death in execution was avoidable. The process was comfortable in its certainty, familiar in its message, and accessible because of its immediacy and visible workings through both the physical expressions of the condemned and the public nature of the execution. Smith retained this basic formula after 1688. It was the same *Account*, the same Ordinary, and the same warning to others. But it was not the same England.

“Every one is wronged”: Inclusion and Exclusion after 1688

Once the idea that obedience was commanded by the monarchical head of the body politic was undermined, the justifications for naming and condemning criminals was similarly challenged. In the *Account* after 1688, there developed an increasing emphasis on the damage done by crime to the “people”, to the “poor”, and to “England.” The harm inflicted by crime was directed outward into the body politic. This explanation attempted to legitimate the authority of the body politic as the arbiters of justice by increasing their share in the smooth operation of society. However, the very people who suddenly found themselves included in the narrative of authority were precisely those who were most likely to find themselves at its mercy. The poor might have been less willing to accept the responsibility of the body politic, because they were suspicious of the idea that the law included them, rather than existing to punish them. To this end, the *Account* reiterated the language of inclusion in justice as a way to firmly exclude the

⁶⁴ Ordinary of Newgate’s *Account*, 6 September 1678.

condemned from the body politic as a whole. Additionally, the Ordinary provided only that biographical information of the condemned that supported a narrative of their willful idleness, which signaled to the lower sorts that even though they did not enjoy the same access to authority or property, they were still better than the condemned. In this way, the Ordinary sought to undermine any sympathy for the plight of the condemned.

The tension of simultaneous inclusion and exclusion was articulated at the Old Bailey and in the condemned hold at Newgate. John Pendergrass came before the Old Bailey magistrates in July 1689 for the crime of writing and publishing “A short History of the New Christen’d Convention,” wherein he made “scandalous Reflections” such as “I would have the Prince of Orange know, that our Eyes are more and more opened; And that we see those Men that pretend to do our Religion Right, instead of securing our Liberties, do bring us into Slavery.”⁶⁵ Pendergrass’ alleged pamphlet undermined the authority of the legal proceedings by connecting the new King and his supporters with slavery – hearkening back to the charges of arbitrary power that led to the Glorious Revolution. The court had to counter these allegations, and did so by asserting its legal authority as separate from the monarch: “What dangerous Consequence the promoting of such Principles might prove to the Liberties and Properties of all True Englishmen!” Pendergrass was justly punished for his crime “against the *People and Government of England*,” not the King and Queen.⁶⁶

⁶⁵ *Old Bailey Proceedings*, July 1689, trial of John Pendergrass.

⁶⁶ See also the trial of Francis West, 9 October 1689, convicted of publishing “Elementa Politica: Or, The Grounds of Government opened” which stated “That the Great Magna Charta Law of England was a Nullity, and of no Force, &c.”; Trial of John Lowthorp, 3 September 1690, indicted for “a most pernicious, scandalous, Seditious and Notorious Libel” which “was purely and indeed to Raise Rebellion and Discord

Outside of the courtroom, the public execution provided at least one very clear demonstration of *some* power, even if the identity of who or what possessed that authority was unclear. The Ordinary sought to overcome ambiguity in this regard and attempted to convince the condemned that through their crimes, “the Community,” not the King, was “so much dammfied.”⁶⁷ Crimes against property posed a “great damage ... to the Poor.”⁶⁸ Casting the condemned as having betrayed the body politic instead of simply threatening its traditional head dispersed the responsibility of condemnation throughout English society. Those gathered to watch the execution were to understand that it was *they* who were harmed by the criminal, rather than the King. As such, they should take stronger warning from the execution as well as experience a greater catharsis. The execution did not have to be inimical to the ideals of a modernizing England, but could instead represent its greatest achievements. If anything, the body politic deserved *more* from the condemned and their execution. A 1692 song, *England’s Complaint: Or, the Nation’s Abuse thro’ Clipping and Coyning* ended with a harsh judgment of counterfeiters: “Were you all to be hang’d,/ as some Coyners have been,/ or burn’d at a Stake,/ It would be no sin;/ For the worst of High Robbers,/ I tell you what’s true,/ deserves much more favour/ Than any of you.”⁶⁹ William Fleetwood, chaplain to William

between the King and People, on purpose to set the Nation into a Flame, and to cause them to cut each others Throats.”

⁶⁷ Ordinary of Newgate’s *Account*, 24 October 1690.

⁶⁸ Ordinary of Newgate’s *Account*, 17 July 1691.

⁶⁹ *England’s Complaint: Or, the Nation’s Abuse thro’ Clipping and Coyning. To the Tune of, When I was young, I had no Wit* (Bristol: 1692).

and Mary, argued that in crime “every one is wronged ... and every one is actually a loser more or less,” especially “the Poor and Labouring Man.”⁷⁰

The problem with allowing the body politic as a whole to feel wronged by crime stemmed from the emphasis on the damage done to the poor. This was not the case, in practice or in theory.⁷¹ The law existed to protect the interests of authority, both before and after 1688. After the Glorious Revolution and into the eighteenth century, the law was concerned with the protection of property. Those who had property to be protected benefited from the prosecution of criminals who almost exclusively came from the lower sorts. Although these two groups were theoretically allied in the body politic, the upper middling sorts had a vested interest in distinguishing themselves from their poor brethren. Concerns regarding the protection of material reflected a more general anxiety about the morality of material progress.⁷²

As a result of this anxiety, the need to define the boundaries of the body politic was “sharpened by even greater social and moral condescension” between social and economic groups.⁷³ The “Poor and Labouring Man” was included in the body politic, and thus the enacting of justice, because he was “Labouring” and therefore deserving of this

⁷⁰ William Fleetwood, “A Sermon against Clipping, preach’d before the Right Honourable the Lord Mayor and Court of Aldermen, at Guild-Hall Chappel on December 16, 1694,” (London: 1694).

⁷¹ See Douglas Hay, “Property, Authority and the Criminal Law,” in *Albion’s Fatal Tree*, 17-63 who argues that the laws protecting property were a “ruling-class conspiracy” against the lower sorts.; See also Linebaugh, *The London Hanged*.

⁷² Paul Slack, “Material Progress and the Challenge of Affluence in Seventeenth-Century England,” *Economic History Review* 62 (2009): 576 – 603.

⁷³ Ibid.

inclusion. The *Account* relied on this distinction as well, and separated the condemned from his socioeconomic peers by specifically iterating that their greatest sin was a willful idleness that in turn justified their condemnation. Henry Jones told the Ordinary in July 1689 that he “was not brought up to any Trader, so Idleness exposed him to want, and this to Robbing.”⁷⁴ The Ordinary replied “it was no excuse.”⁷⁵ Philip Macqueere had already been found guilty for highway robbery and reprieved, but at the tender age of fourteen was condemned for the same crime in May 1690. The Ordinary included in his biography of Macqueere that he had been “bred to the Trade of a Watch-maker,” but his decision to lead an “Idle and Expensive way of Living” distinguished his life from those of his fellow tradesmen and ended at the gallows.⁷⁶ Condemned in the same sessions as Macqueere, Andrew Browne was a carpenter who left his trade to pursue “an Idle Life.”⁷⁷ A “G—W” “much blames himself” for his idleness, having left his position as a soldier for King William.⁷⁸ John Earle was a bricklayer until he stole from his father to support his “Idle Expences”, and Mary Jones was employed making lace until “she became Idle.”⁷⁹ Despite having already been burnt in the hand for a prior offense, John Gwin “adventured to run into the snares of Death” when he neglected his work as a

⁷⁴ Ordinary of Newgate’s *Account*, 15 July 1689.

⁷⁵ *Ibid.*

⁷⁶ Ordinary of Newgate’s *Account*, 9 May 1690.

⁷⁷ *Ibid.*

⁷⁸ Ordinary of Newgate’s *Account*, 12 September 1690.

⁷⁹ Ordinary of Newgate’s *Account*, 22 December 1690.

schoolteacher and “grew Idle.”⁸⁰ The Ordinary provided information of prior employment in order to demonstrate that the condemned had a chance to participate appropriately in society, but made a deliberate decision not to do so, for which they were justly condemned. The condemned might share all of the basic qualities with those who they were intended to warn by their ignominious deaths, including unemployment, desperation, and poverty. However, because the condemned *decided* to be idle and choose ill-gotten gains over the perceived fruits of honest labor, then they were fundamentally different from their socioeconomic peers. The Ordinary also brought an increased focus on those who neglected “good Education” or parentage in order to pursue idleness. Lawrance Dadson “mispent ... a Subsistance” left him by his parents, and James Selby “fell into decay of his Estate.”⁸¹ Thomas Standale “grew weary of being under Confinement to a Trade” and Elizabeth Wann willfully left gainful employment as a lady’s servant and “grew idle and kept bad Company.”⁸² Wann “confest, that not Poverty, but only her wicked Heart, inclined her to commit the Crime.”⁸³

“Heart-purity”

The *Account* provided two connected solutions to the crisis of authority that came from a wider vision of the body politic. Instead of tears and lamentations, the mysteries of the heart were given a greater importance as the measure of salvation. This emphasis

⁸⁰ Ordinary of Newgate’s *Account*, 17 July 1691.

⁸¹ Ordinary of Newgate’s *Account*, 18 September 1691; Ordinary of Newgate’s *Account*, 1 May 1691.

⁸² Ordinary of Newgate’s *Account*, 8 March 1693.

⁸³ *Ibid.*

on the heart, and of “Heart-purity” more specifically, reflected an idea that if the body politic would continue to exist without its divinely-appointed head, then its stability relied on the heart of the body politic, or, the people. In the Ordinary’s refusal to accept the bodily expressions of repentance, the condemned were denied the agency of performing their salvation. The task of discerning the qualifications for repentance would be moved to the public space of the gallows, rather than through the Ordinary’s interpretation alone.

The heart was an organ in the seventeenth century to which most abstract principles were attributed, especially those hidden actions of the soul and its control (or lack of) over its moral container. Along with the stomach and the bowels, the heart’s presence in the unknowable and mysterious inner body made itself known through physical sensations. Rare was the seventeenth-century layman who could say his kidney hurt, or his liver felt uneasy, but he *could* feel his heart beat faster in his chest when nervous, excited, or in love. Thus, the heart most perfectly encapsulated that worldview, full of abstract principles like love and hate and sin, all of which were best understood when experienced corporeally.⁸⁴ The heart was real in its physicality, and unknowable in its mechanics, but personal awareness of it allowed the individual some idea of a wider universe. The *Account* before 1688 contained a considerable share of “obdurate hearts” “melting” into the appropriate “sense of their miserable state.”⁸⁵ References to the heart

⁸⁴ See Victoria Ann Kahn, *Wayward Contracts: The Crisis of Political Obligations in England, 1640-1974* (Princeton: Princeton University Press, 2004), 57-73.; Duden, *The Woman Beneath the Skin*, 42, 88-89.; Roy Porter, *Flesh in the Age of Reason: The Modern Foundations of Body and Soul* (New York: W.W. Norton and Company, 2003), 44-61.

⁸⁵ Ordinary of Newgate’s *Account*, 30 August 1676.

in Anglican sermons explained this organ as Conscience, and therefore required a connection between the temporal and spiritual worlds centered in the personal microcosm of the body. If conscience was, according to one sermon, “the Candle of the Lord searching the inward parts,” then the Heart was God’s eyes and ears within the body.⁸⁶ This conceptualization empowered the physical organ with active faculties which allowed the Ordinary to gauge its qualities through the criminal’s physical body. Tears and guilty expressions were connected to the heart as the seat of emotion and a manifestation of the “Power of the Soul taking notice.”⁸⁷ The heart, as the biological and spiritual organ of conscience, was a “Curious Observer ... very quick-sighted” which while “we do not observe and take notice of it; yet so it is.”⁸⁸ After William Harvey’s 1628 *On the Circulation of the Blood*, the heart seemed to have been proven as the biological center of God’s influence in the individual. Harvey’s work supported the Aristotelian conception of the heart as the seat of all emotions and spiritual faculties. He also deepened the layers of the cosmological hierarchy by placing the heart at the center of the physical and spiritual body, “situated at the 4th and 5th ribs. Therefore [it is] the principal part because [it is in] the principal place, as in the center of a circle, the middle of the necessary body.”⁸⁹

⁸⁶ Henry Stubbes, *Conscience the best friend upon earth: or, The happy effects of keeping a good conscience* (London: 1677).

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ William Harvey, *On the Motion of the Heart And Blood In Animals* (Edinburgh: 1628).

The anatomy of the heart was as important as the cultural impact of its “scientific” discovery. For the Ordinary and for Anglican divines science supported, with evidence, their perception of an active God and of humanity’s free will limited by the mortal body. To simplify, the heart was the primary mover of blood (life force) through the body, and because the organ itself housed the emotions (conscience), then the circulation of blood also implied the all-encompassing spread of God’s grace throughout the body.

Alternatively, in the case of recalcitrant sinners like the condemned, Satan’s possession of the heart led to sin’s presence in the entirety of the body and “Nothing less than a total and firm Ejection of him, and the abounding love of sublunary Vanities out of our Hearts, can establish our Peace or Safety.”⁹⁰ Crime poisoned the blood of the body politic, and if it reached the heart, then the body corroded as the poison of crime and vice circulated through the veins of society.

The description of sinner’s hearts as “obdurate” along with their ability to “melt” into a recognition of man’s inherent depravity meant that the heart’s natural state did not lend itself inherently to salvation. It was both vulnerable and vigilant, but never entirely pure. Man and his soul were overwhelmingly susceptible to temptation and sin, and so God’s grace was more difficult to attain. Second, the realm of activity of the heart was constrained by specific theological and biological states such as “miserable” and “ordered” and “fixt”. When applied to the individual body, such as that of the condemned, these constructions implied that natural depravity existed as the starting point for man’s heart, and sin degraded what was already debased. Sin was an inevitable

⁹⁰ Ordinary of Newgate’s *Account*, 27 January 1687.

result of the Fall, and crime was explained within that context. The “obdurate heart,” then, was the natural spiritual result of sin, and led the condemned deeper and deeper until the ultimate sin that led to condemnation. The heart was reactionary, and was only capable of a very particular kind of action or movement: maintenance of God’s standard, backwards into Satan’s clutches, and forward again to maintenance through repentance and in salvation. A rightly-ordered heart led to a rightly-fixed soul, and directed the body to its divinely-ordained position within the Great Chain of Being.

After 1688, the Ordinary employed a more liberated understanding of the heart, one that supported a group of people who were experiencing a crisis of authenticity as a result of their having far exceeded their traditional boundaries by deposing and then electing a monarch. The idea of “Heart-purity” shared similar qualities with the heart of pre-1688, and still depended in the first place on the connection between the biological organ and the cosmological universe. If the “obdurate heart” began debased, the heart of “Heart-purity” implied a different starting point than the simple maintenance of a “certain innate principle of Vertue” that marked God’s intervention in the temporal world, and in the salvation of the condemned. “Heart-purity” was not a reaction to man’s natural inclination to sin, but a decision. The condemned did not begin at a distinct disadvantage from any other member of the body politic, but followed “the Evil Inclinations of his own Heart.”⁹¹ Crime became less a consequence of the society that encouraged vice and criminality, than the criminal’s “own Corrupt Heart which led him aside to commit the

⁹¹ Ordinary of Newgate’s *Account*, 9 May 1690.

Crime.”⁹² For the condemned, this transition served to further distance them and their actions from the bounds of polite society. The Ordinary’s reliance on the entirely novel concept of “Heart-purity”, together with the inability of the condemned to prove repentance via their bodies, placed the fault of crime firmly on the condemned. The explanations for crime were applied strictly to the individual criminal in his/her failure or unwillingness to strive for perfection, as opposed to a perhaps unavoidable side effect of humanity’s general failure as a result of Original Sin. For the Ordinary, it was the “mixture of Carnality, where Hypocrisie predominates” that barred the condemned from their potential to “live up to the heighth and dignity of his renewed Nature, and not to act degenerately, below his holy state, as not being enslaved to any Lust or Passion.”⁹³ It was the inherent “self-seeking” nature of crime which “confine[d] the Noble Soul to [a] particular low.”⁹⁴ When the Ordinary “visited the Condemned, and inquired what Divine impressions the Author of all Grade had made on their Hearts,” he still refused to accept their bodily expressions of repentance as it applied to their hearts, since “clear and strong Convictions in Confidence may vanish in a fruitless sense of Sin.”⁹⁵

The Ordinary expressed a heightened concern for “what Impressions were made on their Hearts” as a result of his focus on “Heart-purity”. Jacob Turner in May 1689 said he “found his heart more softened” and the Ordinary observed that “of his whole

⁹² Ibid.

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

Behaviour, I do think that he was an Example of Repentance to the rest of the Criminals.”⁹⁶ The eighteen condemned who met the Ordinary in July 1689 disappointed him, since it was obvious from their collective countenance that “they retained very little of the Counsel given, so prevalent is a custom in sinning to stupifie the Heart.”⁹⁷ Before this group was taken to Tyburn, the Ordinary asked one last time “what was the frame of their Hearts,” and expressed despair when “Some sighed and wept; others did not care to give any distinct account.”⁹⁸ The heart could be “stupifie[d]”, “changed”, “Stony” and most worrisome of all to the Ordinary, it had the ability to “deceive ...in...preparation for Death.”⁹⁹ The condemned were ordered to “Fear the Fickleness and Falsness of your hearts” that jeopardized the hope of salvation by convincing the condemned to “only beg pardon, and not a change.”¹⁰⁰ If the heart was capable of deception and insincerity, then the Ordinary’s task of interpreting the signs of true repentance issuing forth from that organ was threatened by that duplicity. Despite the ability of some of the condemned to “speak so knowingly in the Qualifications for Salvation,” the Ordinary seemed less and less certain of salvation, and frequently concluded that “I hope it proceeded from his heart.”¹⁰¹ Because the “Heart is very deceitful,” the condemned themselves were

⁹⁶ Ibid.

⁹⁷ Ordinary of Newgate’s *Account*, 15 July 1689.

⁹⁸ Ibid.

⁹⁹ Ordinary of Newgate’s *Account*, 23 October 1689.

¹⁰⁰ Ordinary of Newgate’s *Account*, 21 December 1689.

¹⁰¹ Ibid.

increasingly seen by the Ordinary in a similar manner.¹⁰² Robert Hilgrave made “a good profession” in May 1690, “but for the sincerity of his heart, I must leave that to God’s determination.”¹⁰³ Thomas Kelsey, condemned for murdering one of Newgate’s turnkeys, lamented to the Ordinary that he was “a sad and miserable Example of the hearts deceitfulness,” but acknowledged that “nor yet [have] Gods Mercies drawn me to a sincere Repentance.”¹⁰⁴ He was “grieved at my very heart” and “begs the Spirit of God to work his heart more to the loathing and killing of his sins.” Part of Kelsey’s grief came from his own inability to provide the requisite bodily markers of repentance, since “he could not shed Tears for his sins.” In a surprising repudiation of his work up until this point, the Ordinary replied “That true Repentance consists more in the sincere Contrition of the Soul, than in outward Expressions of pensiveness: And that our very Tears for sin, are polluted as having need of cleansing.”¹⁰⁵

The heart, given an increased responsibility in directing the actions of the individual toward morality or vice, also became more capable of deceiving not only its owner, but those tasked with discerning its fitness for salvation. While God remained “the Searcher of all Hearts,” the burden of preparing that heart fell squarely on the individual. However, using the heart in this way offered moral liberation without providing the types of corporeal guides and markers that supported the constraints of obedience in the past. Capitalizing on the explanatory power of the heart maintained the

¹⁰² Ordinary of Newgate’s *Account*, 9 May 1690.

¹⁰³ Ibid.

¹⁰⁴ Ordinary of Newgate’s *Account*, 13 June 1690.

¹⁰⁵ Ordinary of Newgate’s *Account*, 13 June 1690.

connection between body and soul that came before, but did so in a way that still rendered that relationship less certain in its ability to express the universal truths that defined and justified authority. When the body politic was granted responsibility for their own actions, this in turn granted the individual a dangerous agency that still needed to be policed.

“poor Countrey Jack’s Farewell”: The Execution

If the heart could no longer be trusted to provide visible signs of its obedience to God after 1688, then how would any individual be confident in the discernible manifestations of morality expressed through *any* body? The Ordinary’s increased reluctance to trust the corporeal appearance of obedience in the condemned complicated the narrative of authority. That hesitancy in turn undercut the cultural power of explaining and justifying obedience in bodily terms. Furthermore, once doubt arose regarding the heart, it could not but apply to the rest of the condemned body. John Davies in December 1689 “trembled” during the Ordinary’s sermons, but his salvation was not certain.¹⁰⁶ Elizabeth Dale, in May 1691, “pray[ed] often with Tears, that God would more soften her Heart, and bring her to repentance,” but the Ordinary “exhorted her not to rest in the *beginning* of relenting.”¹⁰⁷ Honour Allen, condemned the same sessions as Dale, “wept much and said she *hoped* her Tears came from true sorrow of heart for offending God.”¹⁰⁸ In the uncertain times of post-Glorious Revolution England, the Ordinary

¹⁰⁶ Ordinary of Newgate’s *Account*, 21 December 1689.

¹⁰⁷ Ordinary of Newgate’s *Account*, 18 September 1691.

¹⁰⁸ *Ibid.*

reflected the crisis of legitimacy experienced by authority when he refused to accept bodily expressions of spiritual truth. Once the rules of authority and obedience resting in the monarch were fundamentally challenged by the events of the Glorious Revolution, so too was the certainty of God's direct intervention in the world. England, like the condemned, could not "but be afraid lest God should laugh at your Calamity."¹⁰⁹ The unmistakable markers of grace, morality, and of divine approval for man's actions, like the heart of the condemned, seemed to have been lost. It was as though England, having rid itself of a Pretender, instead became a nation full of them.

This meant for the condemned that although their bodies could no longer be trusted to do the work of repentance, they *could* be used to illuminate the same fundamental truths about power and its exercise through the execution. As one part of the Ordinary's formula lost its explanatory potency, another aspect rose to compensate. Since the condemned could no longer *prove* themselves with loud sighs and groans, the Ordinary had then to replace this physical cue with another that would straddle his old formula and new script. The Ordinary relied on the public declaration of repentance at the gallows as a truer expression of sincerity, rather than the otherwise invisible tears shed in Newgate. Preaching to the ten condemned in January 1693, the Ordinary used Scripture to show "First. Who are meant by Sinners; viz. Such who are *publickly* notorious before Men; in whom a *publick* Recantation is requisite [emphasis added]."¹¹⁰ By "publick" he meant in full view of all, and not just those confessions or lamentations delivered to him

¹⁰⁹ Ibid.

¹¹⁰ Ordinary of Newgate's *Account*, 27 January 1693.

in Newgate and recorded in the *Account*. Anything less became suddenly suspect, because only by the very nature of public confession and public repentance could the truth of salvation and God's authority be gauged. Furthermore, both the courts and the Ordinary emphasized the necessity of revealing accomplices but rarely succeeded. The example set by public justice had to assume a heightened importance as a deterrent. John Collett, alias Cole, was condemned for robbing St. Bartholomew's of plate, and when the Ordinary came to see him he admitted to the crime but would not expose who else might have been involved. He allowed, too, that he "had been a great sinner." The Ordinary responded that Cole "could not be sincere" unless he "exposes to the publick [his] Crimes."¹¹¹ Depending on the damage wrought by a crime, the Ordinary "prest them also, to make their penitential Acknowledgments *as publick, as their Scandals had been notorious* [emphasis added]."¹¹² According to the Ordinary, this tactic worked. Criminals began to show up in Newgate, apologizing for their sins against God, but also for having "not taken warning by the examples of publick Justice on others."¹¹³ The emphasis on the public confession and acceptance of judgment made its way into the Ordinary's introduction of his *Account*. Instead of simply stating that his narrative was intended as a warning, the Ordinary now lamented that the condemned "against all the warnings of

¹¹¹ Ordinary of Newgate's *Account*, 17 July 1691.

¹¹² Ordinary of Newgate's *Account*, 21 December 1692.

¹¹³ Ordinary of Newgate's *Account*, 26 February 1691.

Publick Justice on other Criminals,” had stupidly “Intangled themselves in the snares of Death, by their Dissolute Practices.”¹¹⁴

The first *Account* after the Glorious Revolution was published on May 30, 1689. Besides providing the definition of “Heart-purity”, the Ordinary introduced his audience to Charles Lee, age 19, condemned for a felony on the highway. Lee was employed selling cloth as a peddler in the country before moving to London in the winter of 1688, right in the midst of the Revolution. Unsurprisingly, a country boy in the big city had a hard time finding work and predictably fell into “bad Acquaintance.” Lee told the Ordinary he could not remember his crimes, as he was addicted to drinking and was therefore “Fudled when he Robbed.” The Ordinary hoped he was penitent after meeting Lee in Newgate, but found that desire misplaced at Lee’s execution. On execution day, “about Ten a Clock, the Nine Prisoners Condemned were put into three Carts, and Conveyed to the Execution.” When the condemned were tied up to the Tree, the Ordinary led them in singing a Psalm and then “asked them to confess to the People the occasion

¹¹⁴ Ordinary of Newgate’s *Account*, 18 December 1691. The concern for public confession and repentance was paired with an increased emphasis by the courts on the revealing of accomplices, reflecting what J.M. Beattie states were two consistent sources of dissatisfaction with the law before the Glorious Revolution – the obvious failure of capital punishment to deter serious crimes, and the absence of a serious response to minor crimes. The prospect of accomplices implied an invisible crime, while their naming made them visible and therefore controllable. The weaknesses of this system led not to an abolition of capital punishment, which might have been expected given its inability to deter crime. Instead, over forty bills were proposed by post-1688 Parliaments concerning juries, vagrants, servants, immorality, and vice. Beattie argues that these bills demonstrated a distinct change in “Parliamentary concern for social issues of this kind” than before the Glorious Revolution, but that while this was so, there existed “no programme, no planned campaign, no co-ordination, no sustained public discussion of ideas.” However, if there were no plan, then the Ordinary’s rhetorical treatment of the condemned body and his concern over the public display of repentance made little sense. While there may not have been a public discussion of capital punishment, the execution itself remained a visible display of authority, and the Ordinary’s graphic descriptions of the execution after 1688 served to illustrate the consequences of immorality and crime to a much wider population than those gathered at Tyburn. Beattie, *Policing and Punishment in London, 1660 – 1750: Urban Crime and the Limits of Terror* (Oxford: Oxford University Press, 2001), 314, 315.

of their coming thither.” Some were more concerned with this part of the pageant than others. “As soon as he came into the Cart,” Charles Lee was

very resolute, and look[ed] with a very angry Countenance, taking a handful of Money out of his Pocket, threw it out of the Cart amongst the Spectators, saying Gentlemen here is poor Countrey Jack’s Farewell. But after he demonstrated himself further, saying, I have followed the Road these seven years and more and have got Money enough to maintain me as long as I need to live...He said further, That he never committed Murder, nor never Robbed any poor Man in his Life.

Lee’s performance was remarkable for many reasons. First, he performed his part well enough in Newgate to give the Ordinary the hope of penance. Then, he antagonized the Ordinary while in the Cart on the way to Tyburn, and betrayed him at the last moment by refusing to confess the justice of his crimes and affirm the justification for them. He did not say he was innocent of robbing, but that he never robbed a *poor Man*. Most extraordinary, though, was the Ordinary’s description of his execution. At Lee’s “turning off, he gave two extraordinary Jerques of his Legs, which was much admired by all the Spectators.”¹¹⁵

This *Account* was the first by the Ordinary to comment on the physical nature of a hanging at Tyburn. This marked a new element in the formula of the Ordinary’s *Account*. After 1688, he provided increasingly detailed descriptions of the act of hanging itself. Thomas Kelsey “was Executed on a Gibbet in Newgate-street just before the Prison, as a terrour to others; he prayed very fervently to the very last moment, and continued hanging for the space of Three Hours.” This particular execution took place in stages, so that “During Kelsey’s continuance on the Gibbet,” the other seven criminals made their

¹¹⁵ Ordinary of Newgate’s *Account*, 30 May 1689.

long journey to Tyburn. Just as “the Executioner was about to tie one of them up, there came a Reprieve from the Queen to respite the Execution, which was received by the Prisoners with extraordinary Joy, thankful Acknowledgment, and Protestations of Amendment.” This was the public expression of mercy, but came also with a continued public display of shame as the prisoners “were brought back with the Ropes about their Necks.”¹¹⁶ The Ordinary also paid more attention to the condemned performing their public duties. Thomas Cox and “G – W-” were “very impertinent in their Behaviour, and undecently and irreverently reflected upon the Government” at Tyburn. The Ordinary responded by giving them a “suddain and a severe Check, and would not suffer them to proceed.”¹¹⁷ Most of the condemned at Tyburn in December 1690 “expressed, as well in Gesture as Countenance, a very sorrowful demeanour for the failings and misdemeanours of their past Lives.”¹¹⁸ The Ordinary called for them to spend their last moments “Redeeming the time they had spent or squandered away in trifling Vanities, and things that had proved destructive to their Bodies.” A few of the condemned desired “to be excused by reason of the Extremity of the Weather, their uncomposedness, or some such like Excuses.”¹¹⁹

Conversations between the Ordinary and the condemned moved from the section of the *Account* that detailed their lives, and into the physical space of the gallows where

¹¹⁶ They were all executed later. Ordinary of Newgate’s *Account*, 13 June 1690.

¹¹⁷ Ordinary of Newgate’s *Account*, 12 September 1690.

¹¹⁸ George Hutton, Francis Yates, Richard James, Charles Wells, Peter Heasey, William Jones, John Earle, John Wray alias Ray, Sarah Cane alias Moor, Constance Wainwright, Elizabeth Trant, Thomas Diggs, and Bartholomew Mumford. Ordinary of Newgate’s *Account*, 20 December 1690.

¹¹⁹ Ibid.

the crowd could attest to their veracity. Perhaps the Ordinary intended to reach a wider audience of those who did not attend the execution, or he wanted to reemphasize the points made publicly. Those final conversations added to the spectacle, as the crowd watched the process of repentance. The behavior of the condemned served to reinforce, more visually, the truth of that connection between divine and temporal law. At the gibbet erected outside the house where he murdered Mary Bartlet (alias Bartley), James Selbey listened as the Ordinary pressed him to confess the particulars of his crime. Selbey told the crowd that “[it] pleased Almighty God to dispose of Men otherwise, by bringing them to publick shame, in such an infamous way as he appeared before them.” He lamented to the crowd to “take warning by his sad Example,” and specified how they should do so, “not Notionally and Speculatively, as it was the common saying of all dying Men, but to make such use of it, as might work a true love to God in their Hearts and Souls.” Selbey’s public shame continued after his death as “after he had hung the usual time, he was cut down, and carryed to Mile-End, there to be hanged up in Chains.”¹²⁰

The new focus on the physical details of the execution cannot be ascribed only to a growing competition from a marketplace that offered valorized accounts of criminal heroics and crime, such as we find in the eighteenth century and the *Account* authored by the prolific and sensational Paul Lorrain. Indeed, the Licensing Act ensured that the *Account* provided the only official printed information on executions at Tyburn.¹²¹ In a

¹²⁰ Ordinary of Newgate’s *Account*, 1 May 1691.

¹²¹ Linebaugh, “The Ordinary and His Account”.; McKenzie, *Tyburn’s Martyrs*, 31-45, 121-152.

strange way, though, a graphic detailing of the execution made perfect sense given the avalanche of challenges faced by the Ordinary after the Glorious Revolution. The work of convincing the body politic that they were intimately involved in the justice of execution was more difficult than the Ordinary expected. In severing the connection between body and soul as able to demonstrate each other, as the Ordinary did when he refused to accept bodily expressions of repentance, the body politic lost its tether to authority and obedience. Furthermore, when the condemned resisted the Ordinary's construction of their bodies as insincere and false, they threatened to undermine the validity of authority and those who claimed it after 1688. The public execution, paired with the graphic description of death in the *Account*, was an attempt to exercise greater control over bodies without relying on the connection between body and soul. The condemned had already lost their liberty and were poised to lose their lives as well, but in the Ordinary's traditional script, the condemned could still exercise a certain amount of agency over their bodies through crying or sighing or lamenting, in order to achieve salvation. When that ability was taken away after 1688, the effect was a sort of double condemnation. Once the soul became suspect, so too did the body, and both temporal and spiritual death were ensured. These two deaths functioned as an increased warning to potential criminals, while the justifications for condemnation as curative for the entire body politic served to validate the claims of authority for the State after 1688. The Ordinary could not actually dominate completely the bodies of the condemned, especially when it came to their behavior on the scaffold. But though the condemned could speak their minds in

those final moments, as did Charles Lee, they could no longer escape the power of the Ordinary and the authorities he represented to take control of their bodies in death.

Conclusion: “no better than House-breakers, and Common Thieves”

On May 9, 1690, seven men and women met their end at Tyburn Tree. The Ordinary published an otherwise typical *Account*. Smith outlined to his audience that he had “preacht twice” to the condemned while they waited in Newgate, then “inquired how their hearts were affected” by the prospect of their impending deaths. He visited the condemned to gather evidence “that they were sensible of their sin and misery,” then catalogued the biographical information that would separate them from the body politic. John Wilson was a “Clothworker” convicted of burglary was first “very disobedient to his Parents.” Jonas Ratcliffe was a butcher and former soldier who admitted that he “kept not the Sabbath.” George Crawford was also a former soldier who told the Ordinary “he is Vile in his own Eyes.” Andrew Browne, a carpenter, fell into “an Idle Life [and] Evil Company.” John Thompson “came over to England in Service with a Gentleman” and “acknowledged the Just Hand of God upon him,” while William Elderkin was a wool comber and soldier who “grew loose,” “did too often Swear, and was guilty of other Sins.”¹²² Smith was pleased to note that at Tyburn, many of the condemned were “very penitent.” However, three of the condemned remained obstinate during their time at Newgate and “all appear’d at the time of their Execution to be Papists,” and “always true to the Interest of the Late King James.”

¹²² Also condemned were Robert Hilgrave, William Mawn, William Column, Philip Macqueere, and William Bristow.

The Ordinary, typically mum on matters of politics, found it necessary to attach an uncharacteristic addendum to this particular *Account*,

Let every True Hearted and Unprejudiced Protestant, of what Rank and Quality soever, see now what kind of Instruments, and Dubbed Utensils, the late King James has to work withal, no better than House-breakers, and Common Thieves, who have been fairly Convicted by our England Laws: Yea such Laws that King James himself must needs have made use of, for the Conviction of such Cruel Miscreants as these were; if he had been Seated in the Royal Throne, (which God forbid.) These, and such like, are the Men that even when the Ropes are about their Necks, and just ready to be turned off, they will spit their Venom against the Face of the Government, and if were possible Stone to Death all the Spectators...¹²³

The message here was clear; if men such as these were supporters of King James, then it followed necessarily that England was better off without him. Rather than protecting the English people from crime, the Ordinary posited that King James had encouraged it in allowing the body politic to feel “as if there were no Heaven to Condemn, nor no Hell to Torment, trusting only to the deluding Vanities of a vain hop’d for Purgatory.” “Ignorant Ears” stood no chance against the “laborious and never wearied Jesuits, and untir’d Popish Priests” who were allowed to run amok in the Pretender’s England. But the Ordinary encouraged his readers to take hope in the aftermath of the Glorious Revolution, almost as if it were the death of Christ, for it had redeemed the body politic – a fact made clear by these Catholic criminals who were condemned for burglary, and whose execution ultimately cleansed England of “that Whore of Babylon, who has always been striving to make the Nations Drunk with the Blood of her Fornications.”¹²⁴ The Ordinary connected the crime of burglary with the sins of a nation, and the execution with the

¹²³ Ordinary of Newgate’s *Account*, 9 May 1690.

¹²⁴ *Ibid.*

purification of a body politic. The “Face of the Government” was reflected in those of the audience, all of whom should beware the “Venom” and “Stone[s]” of crime and vice that threatened them.

In order to cement their authority after the Glorious Revolution, those in power relied on the type of association made by the Ordinary in May 1690. They attempted to bridge traditional conceptions of submission founded on the metaphorical implications of divine-right monarchy and the Great Chain of Being and a more progressive vision of a body politic capable of operating without its head. The Ordinary undertook to ease this transition in his *Account* by altering his original interpretation of the condemned body and soul. His addition of “Heart-Purity” as the basic principle of salvation made it far more difficult for the condemned to communicate the truth of their repentance through bodily expressions such as tears and lamentations. Paired with an intensified emphasis on public repentance and confession, and in the last resort on a graphic description of the execution itself, the condemned body became increasingly divorced from its spiritual partner the soul. When the condemned found themselves suddenly bereft of hope for eternity, this signified to the body politic that the rules of obedience had changed as well. Bodily expressions would no longer be counted as sincere reflections of the health of the soul. This corporeal-spiritual divide would grow deeper throughout the eighteenth century and reach its zenith in the Victorian era, when concerns for sincerity proliferated even the act of mourning.¹²⁵ The condemned body and the execution had to remain at the forefront of a nation in transition because nothing as useful or convenient existed to

¹²⁵ See Amy Oberlin, “‘Share with me in my Grief and Affliction’: Royal Sorrow and Public Mourning in Early Eighteenth-Century England,” *Parergon* 31 (2014): 99-120.

replace them. Defining, justifying, and affirming authority relied on the provision of a set of guidelines for a body politic stuck somewhere between moving confidently forward or harkening back. It relied on the ability of each individual to discern the morality or immorality of others without the express example of a singular head. Public confession and public death imparted clearer definitions of vice and virtue than proclamations and associations, meaning that the body condemned played an ever-increasing role in defining and developing the values of the body politic. The strength of these values depended on discerning sincerity in intention as well as in action, but the traditional metrics of this assessment went the way of King James. If the salvation of the condemned could not be judged by the visible actions of the heart's intent, then a similar question was posed to the body politic. Mortality remained one of the few certain truths after 1688, and how one reached that end depended less on an actively engaged God than on the tangible actions of the individual. An ignominious end signaled a certain type of life, one filled with a flagrant disregard for society's changed values. The condemned and their execution still straddled the dividing line between this world and the next, but the gruesome trappings of mortal death revealed an England less concerned with its own eternal fate than with its future glory.

Ironically, the message of authority written on the condemned body would be successful in reaching the rest of the body politic, but to the detriment of its own peddlers. Once the body and soul could be divorced from each other, neither could be satisfactorily controlled. Furthermore, if new authorities required for their specific purposes that the justifications for execution place the noose of responsibility around the

neck of the body politic, then the execution itself had to match the level of effort required in validating this change. More and more crimes needed to be added to the capital code, and the types of punishment levied on the condemned would eventually become viewed as just as tyrannical, if not more so, than anything the Stuart brothers could have dreamed. In their quest to justify and moralize their ascent to power as well as their material wealth, the growing English State planted potential seeds for its own destruction. If the body was reduced to a mere vessel without contributing at all to the state of the soul, then what care should the body politic have for its mortal life? The consequences of the separation of body and soul would be illuminated and challenged around the English Atlantic and on the high seas, as pirates in their Golden Age threw care of their souls to the wind in pursuit of the material and corporeal pleasures offered by the immense wealth of a British nation.

CHAPTER THREE

“MAKE GENTLEMEN OF THEM ALL”:

LABOR, AGENCY, AND THE BODY IN THE GOLDEN AGE OF PIRACY

Oh Gibbet, thou art Planted among Thieves, art made by Thieves, and art Hanged full of Innocents. The whole History, wherein these Words were found, was Written with Black Ink, and these Words in Vermillion Letters.

Observer, August 30 –September 3, 1704

We’re killing strangers, so we don’t kill the ones that we love.

Marilyn Manson, “Killing Strangers”

Introduction: Execution Dock, 1725.

Between 2 and 3 o’clock on the afternoon of June 11th, 1725, when the tide ebbed enough for “convenient Access” to the gallows located at Execution Dock on the Thames, a crowd of Londoners gathered to witness the execution of nine members of John Gow’s pirate crew.¹ Located at the end of Brewers Street, Execution Dock was “so called from Pyrates being hanged there till it’s high Watermark, when Condemned by an High Court of Admiralty, for robbing on the high and open Seas.”² Its scaffold and those who hanged from it was visible to ships passing through the river to their various ports, and the bodies of those condemned for piracy rose and fell with the tide in full view of those mariners who might dream of the freedom demonstrated by the pirates’ “irregular,

¹ *Daily Post*, 11 June 1725.

² William Stow, *Remarks on London: being an exact survey of the cities of London and Westminster* (London: 1722).

dissolute Life.”³ The procession from Newgate began in the morning, winding through the streets of London preceded by High Court of Admiralty officials carrying the silver oar that distinguished their judicial body in charge of these men’s condemnation from its civil counterpart. One of the condemned, William Ingram, confessed to “voluntarily, going on board a pirate-Ship ... and continuing with the Pirates, after he might have made his escape,” as well as “being active in fighting with Ships which made opposition.”⁴ Even while he accepted his guilt, Ingram maintained that regardless of his voluntary and active participation in piracy, all members of the crew were “necessarily oblig’d either to give blind Obedience to [the Pirates’] Orders or submit to present Death.”⁵ Ingram vehemently denied the charge that he was present at the sinking of an English ship, as he was not physically on the pirate ship when it happened.⁶ James Williams, the lieutenant of the pirate ship, was too sick to argue with his condemnation. The Ordinary of Newgate still recorded that “He was altogether Illiterate ... yet his excess of wickedness gave him Merit to be declar’d Lieutenant of the Ship.”⁷ The pirate captain John Gow confessed under torture to the murder of an English captain, and acknowledged that his “Covetousness after Riches, to be obtain’d whatever way, either

³ *A True and Genuine Account of the Last Confession and Dying Words of John Gow, alias Smith, Captain of the Pirates. As likewise of the Eight others, who were Executed with him, on June 11th, 1725* (London: 1725), 6.

⁴ *Ibid.*, 7.

⁵ *Ibid.*, 8.

⁶ *Ibid.*, 9.

⁷ *Ibid.*, 16.

by Right or Wrong” led him to join a pirate crew. As for his being captain, Gow maintained until the very end that he was “forc’d” to “accept the commaund.”⁸ The magnitude of Gow’s supposed crimes warranted that his body be hanged in chains to rot after his execution, rising and falling with the Thames. Less than a month later, young Alexander Rob was executed at the same scaffold, having obtained a brief reprieve after the High Court of Admiralty reevaluated his claims to innocence. Rob pleaded with the Court “that he was not a Voluntier but truly forced into the Service of the Pyrates ... a press’d Man by fear of immediate Death, from the Beginning.”⁹ The Dead Warrant for Rob was handed down after it was discovered that he had stripped one Captain Gross “[of] not only his Money, but Cloaths, and put them on his own Back before his Face,” and failed to make his escape with a Scottish crew when offered the choice.¹⁰

Of the sixteen men captured as part of Gow’s pirate crew and brought to trial by the High Court of Admiralty, ten were executed, two were reprieved, and four others were released and paid by the High Court of Admiralty for their testimony leading to the condemnation of the others.¹¹ The execution of Gow’s crew was not spectacular when compared to other mass hangings of pirates around the English Atlantic in the early eighteenth century, and indeed might be considered relatively tame. However, the specific ways in which guilt and innocence were assessed by the High Court of Admiralty were exemplars of the State’s need to distinguish this specific era of piracy and its

⁸ Ibid., 11.

⁹ Ibid., 26.

¹⁰ *Parker’s Penny Post*, 5 July 1725.

¹¹ “London, June 10,” *Daily Journal*, 10 June 1725.

perpetrators from other times and other criminals. Gow and his crew sailed at the tail end of the Golden Age of Piracy (1714 – 1726). Pirates flourished in the temporary opening between an older economic system characterized by deference and responsibility between laborers and their masters, and a new system that maximized profits through the purposeful exploitation of a laboring class, whose bodies were constrained and disciplined by abuse and want in order to more efficiently direct their labor. This transition was far from seamless, and the social disorder that arose as a result placed the accused pirate at the center of a contentious debate regarding labor, exploitation, and the State. The official campaign to annihilate piracy was not only about criminality or material possessions, but about who possessed labor and the validity of their claims in so doing.

William Ingram owned that he “voluntarily” joined the pirates, but defended his subsequent actions by claiming that he did so under fear and duress, thereby relinquishing responsibility over his labor to those who wished to control it. A similar claim was made by regular English sailors in the early eighteenth century, in regards to their service on English ships, and the loss of agency they felt as a result of their poor treatment. Gow said he was “forc’d” into his position, another common complaint levied against English captains by common sailors. The hesitancy with which the High Court of Admiralty proceeded against Alexander Rob was an acknowledgment that absolute determination of guilt or innocence was elusive in cases of piracy. Ultimately, Rob’s condemnation rested on physicality – that he was on a pirate ship, that he was present when specific piratical acts occurred, and his willingness to engage in other acts deemed *like* piracy, but which

were not necessarily piratical in themselves. Even though Rob “cry’d and roar’d ... fell down upon the Deck” of the pirate ship (establishing him as being on board), he had stood sentry over an English captain taken prisoner by the pirates (present at the enacting of piracy), and worn the stolen clothes of an English officer (acted like a pirate).¹² The pirate represented the logical extreme of the State’s claim to ownership of sailors’ labor. A common sailor in the early eighteenth century believed he owned his labor, and the State attempted through law and terror to revoke that claim. But what right did the State have to claim the labor of its sailors in this transformational moment in English commercial history? The question of agency, and who exercised it, was established piecemeal through the trials of pirates in the High Court of Admiralty.

Although piracy had existed throughout English seafaring memory, this version was different and far more dangerous. The pirates who sailed under the Black Flag articulated what the State believed was a perverted vision of liberty in their Articles, one that deployed beloved ideals of the freeborn Englishman and the traditional freedom enjoyed by the seafaring man against those who would take it away. Their lives and actions were romanticized in print and threatened to undermine the very notions of criminality, if not turn them entirely against those who wielded the authority to create those notions. Pirates were strikingly similar in appearance and mentality to those whom they robbed. Indeed, commentators described English Caribbean planters as “frank and good humor-d, and make the best of Life they can ... They live well, enjoy their Friends, drink heartily, make Money, and are quite careless of Futurity,” an account equally

¹² *A True and Genuine Account*, 26.

applicable to pirates.¹³ An apocryphal anecdote of an encounter between Alexander the Great and the famous pirate Dionides related in the August 1704 *Observer* reflected the ambiguity of pirate's criminality. After his capture, Dionides is brought to Alexander who asks him "Why Dionides, dost thou Rob on the Seas so that no Ship can Sail in Safety for thee?" Dionides replied, "If I Spoil by Sea, why dost thou spoil both by Sea and Land. Oh Alexander! Because I Fight with one single Ship at Sea, I am called a Pirate, and because thou Robbest with two Hundred Ships at Sea, and troublest all the World with two Hundred Thousand Men by Land, thou art call'd an Emperor." If the situation were reversed, "perhaps I should be a better Emperour than thou art, and thou would'st be a worse Pirate than I."¹⁴ The story concluded that "these who Rob openly, are called Lords, and they who Rob privately, are called Thieves." Upon the execution of notorious pirate Blackbeard's crew, Daniel Defoe reflected on the similarities between them and the gentlemen directors of the South Sea Company after the disastrous South Sea Bubble in 1722, "if they had known was doing in *England*, at the same Time by the *South-Sea* Directors ... they would certainly have had this Reflection for their Consolation, viz. *That what ever Robberies they had committed, they might be pretty sure they were not the greatest Villains then living in the World.*"¹⁵ Both groups were held responsible for threatening the public credit and of theft, but one was saved by the State while the other was pursued to the ends of the earth in order for their eradication. That

¹³ Charles Leslie, *A New History of Jamaica*, in *Thirteen Letters from a Gentleman to his Friend* (Dublin: Nelson, 1741), 1.

¹⁴ "'Tis a News Letter, above 1000 Years Old," *Observer*, August 30 – September 2, 1704; Issue 47.

¹⁵ Defoe, *A General History of the Pyrates*, 139 – 140.

the State deemed pirates “Villains of all Nations” stemmed in part from the fact that the majority of pirates were drawn from the “lower sorts” of men. Perceptions of the lower class, specifically their behavior and ability to control their passions, played a significant role in the condemnation of pirates. Alexander Rob’s case was almost certainly given a second review because he was described as educated and from a good family.

Considerations of class colored the assessment of guilt or innocence in cases of piracy, and often contributed to doubt on the part of authorities. The story of piracy was also that of the State attempting to define what, exactly, was a pirate in order to justify their obliteration. To do this, the State, through its judicial organ the High Court of Admiralty, proceeded on a case-by-case basis in order to flesh out the pirate and craft him, truly, into a villain of all nations.

This chapter first considers the social and economic milieu of the common English mariner in the early eighteenth century as a way to understand how he viewed his own treatment under an evolving economic system that seemed hell-bent on treating him badly. The narrative and themes that emerge from sailors’ accounts of their own lives detail ordinary men attempting to regain control over their circumstances, an agency which they perceived as having been forcibly taken from them by others. These testimonies are important for understanding why the High Court of Admiralty proceeded so cautiously in their prosecution of piracy. Next, the testimonies given to the High Court of Admiralty of those common sailors whose stories escaped the popular romanticization of crews like Roberts’ or Blackbeard’s are offered as evidence of the tension between the State and the laborer, and the unease and uncertainty with which the Court sometimes

approached its own role in the creation of criminality. Finally, the 1722 trial of Bartholomew Roberts' crew at Cape Coast Castle on the coast of Africa provides a case-study of how, exactly, the Court sought to overcome the ambiguity of criminality and more clearly define the guilt or innocence of each of the accused by relying on position, deportment, and adornment of the body. Once the body of the accused was so marked, the Court and the State imposed its own narrative on top of that offered by the accused, one that justified the spectacular execution of pirates as a means of regaining control.

It is tempting to view pirates in the Golden Age as anti-heroes who delivered a devastating blow to capitalism in its early stages of development in the British Atlantic. Yet, not every man who joined the pirates expressed a grand or philosophical rebellion against the British trading empire and the exploitation of labor demanded by the economic system which supported it.¹⁶ Indeed, four of those accused with Gow's crew escaped condemnation by testifying against their crewmates, and even made a profit from that testimony. Trial records from the High Court of Admiralty, the legal body in charge of prosecuting piracy and similar crimes perpetrated on the seas, contradict the idea that

¹⁶ Marcus Rediker advances this argument in all of his work on pirates in the Golden Age. In "Under the Banner of King Death: The Social World of Anglo-American Pirates, 1716 – 1726," *William and Mary Quarterly* 38 (1981): 203 – 227, and *Villains of All Nations: Atlantic Pirates in the Golden Age* (Boston: Beacon Press, 2004), Rediker proposes a convincing argument in favor of a dialectic of terror between sailors and an emerging capitalist state, with which I agree. However, his larger conclusions that this dialectic resulted in a communal democratic experiment formed consciously in opposition to the State is undermined by a fuller look at the evidence provided by sailors themselves when brought before the High Court of Admiralty. That being said, his wealth of work on sailors and their social and cultural lives has been invaluable to this project. See *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American World, 1700 – 1750* (New York: Cambridge University Press, 1987) which pointed me in the direction of the High Court of Admiralty records, and led to a different conclusion. My conclusions here do not go quite as far as Paul A Gilje's in *Liberty on the Waterfront: American Maritime Culture in the Age of Revolution* (Philadelphia: University of Pennsylvania Press, 2004) who argues that sailors were libertines who participated in "rituals of misrule" as an outlet for the disconnect between "liberty perceived and liberty lived" of the sailor's life at sea and on shore (93 – 94).

pirates in this era created and exercised an emerging class-consciousness directly antithetical and resistant to the unequal system from which they emerged, and did so with the explicit intention of burning the world to the ground, and going down with it. Several pirates articulated this purpose clearly, and did so in ways that were both fantastic and terrifying. Their stories are the reason that men like Bartholomew Roberts, Blackbeard, Edward Low, Walter Kennedy, and Howel Davis dominate the historical record. Their rebellion is as admirable as it is disheartening, for the pirates in their Golden Age did manage to mount a successful attack on the British trading empire. But ultimately, these men disappeared, and the very system which gave birth to their claims of liberty, and in whose face they laughed, remained and grew.

Rather, of the hundreds of men accused of piracy between 1714 and 1726, many expressed a different narrative of their turning pirate. Certainly, unfettered access to material wealth and a life of “Plenty and Satiety, Pleasure and Ease, Liberty and Power” were factors for many men when they went upon the Account. This desire was only fueled by the incredible wealth promised by the Atlantic trade. As Marcus Rediker asserts, the would-be pirate “knew that trade was the unifying process of the world economy, that the oceangoing ship was the machine that made it possible, and that his own labor made the ship go.”¹⁷ He also knew from experience that as a common sailor, he would probably never have access to the type of bodily liberty made possible by the wealth gained by others from his own labor. In the words of Defoe,

¹⁷ Rediker, *Villains of All Nations*, 23.

I need not bring any Proofs of what I advance, viz. that there are Multitudes of Seamen at this Day unemploy'd; it is but too evident by their straggling, and begging all over the Kingdom. Nor is it so much their Inclination to Idleness, as their own hard Fate, in being cast off after their Work is done, to starve or steal. I have not known a Man of War commission'd for several Years past, but three times her Compliment of Men have offer'd themselves in 24 Hours; the Merchants take their Advantage of this, lessen their Wages, and those few [Seamen] who are in Business are poorly paid, and but poorly fed; such Usage breeds Discontents among them, and makes them eager for any Change.¹⁸

Increasingly harsh naval policies and the demands of British merchant trade further constrained the liberty a sailor enjoyed before the eighteenth century. Just as industrial capitalism changed the relationship of laborers to their work on land, Britain's growing naval and commercial strength at sea altered the relationship of the sailor to his labor discussed below.¹⁹ The spirit, as opposed to the crime, of piracy was directly linked to the conspicuous absence of control over his labor felt by the sailor. Although this experience of disenfranchisement and hopelessness was shared by sailors around the Atlantic, it did not lead to a general spirit of communalism that inspired men to go "upon the Account". For all the legends surrounding pirates and the chaos they wreaked on the Atlantic trade, the High Court of Admiralty records describe men who seized on the hope for a better, or at least more enjoyable life offered by the pirates, and the opportunity to exercise some small liberty and agency over their fates. When faced with the consequences of that decision, many divested themselves of responsibility for that decision in an attempt to

¹⁸ Defoe, *A General History*, 4.

¹⁹ E.P. Thompson "Time, Work-Discipline, and Industrial Capitalism," *Past and Present* 38 (1967): 56 – 97.

save their lives. They were desperate men in a desperate situation, who chose to save their own skin rather than die for a grander cause.

Focusing too much attention on the communalism of piracy can obscure the individualism exercised by sailors that was, after all, the motivation for turning pirate in the first place. The paradoxical actions of those accused of piracy are difficult to stomach, but we cannot “deny historical actors the full range of their humanity by stamping the label of agency only on actions that we deem particularly worthy or admirable.”²⁰ Piracy was directly connected to an understanding of liberty and the physical experience of labor and the body as the Atlantic economy shifted towards capitalism. Sailors, in turning pirate, operated in the middle of traditional modes of plebeian defiance of the type described by Andy Wood, and the gestural defiance advanced by Andrea McKenzie.²¹ This defiance was caused by the increasing restraints on the sailor’s labor and well-being in the opening decades of the eighteenth century as a result of the commercial demands on British trade. Opposition or noncompliance exercised by those accused of piracy were typical of those practiced by the lower sorts, specifically through the medium of the body, one of the few tools available to the poor. Wearing fancy clothes, drinking and eating to excess were comparatively innocent activities which allowed the common man a hitherto unobtainable level of liberty and agency over his body – the freedom to dress a certain

²⁰ Denver Brunsman, “Men of War: British Sailors and the Impressment Paradox,” *Journal of Early Modern History* 14 (2010), 13.

²¹ Andy Wood, “Poore men woll speke one day’: Plebeian languages of deference and defiance in England, c. 1520 – 1640,” in *The Politics of the Excluded, c. 1500-1850*, ed. Tim Harris (New York: Palgrave, 2001), 67 – 98. Andrea McKenzie, “‘God’s Hat’ and the Highwayman’s Shoes: A Gestural and Sartorial History of Seventeenth- and Eighteenth-Century English Trial and Execution,” *Canadian Journal of History* 47 (2012): 231 – 257.

way, and decide what and how much to eat or drink, to indulge rather than struggle. The High Court of Admiralty, and the British state that controlled its form and function, used the body to discern the guilt or innocence of the accused in an attempt to more clearly define the line between capitalists and criminals – a line often blurred as seen above. The history of maritime life and the stories of sailors in the eighteenth century are rife with inconsistency because the motives of men are less clear than the bodies that might bear their marks. Capitalism won, and it did so because men valued their lives more than their taste of liberty, the carrot more than the stick.

“Such Usage breeds Discontents among them”: Sailors and Labor in the Eighteenth Century

Sailors were a proud group, as they possessed a certain level of expertise and capability that was not afforded other laborers in their economic strata.²² Social commentators and politicians lauded sailors as “those very Persons, who, by their Labour and Experience, are the sole Instruments of serving and exalting their Country.”²³ Sailors

²² Sailors’ lives and labors have long been a topic of fascination for historians, and my understanding of the facts of their lives does not differ all that much from the historiography. See Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic* (Boston: Beacon Press, 2000); Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700 – 1750* (Cambridge: Cambridge University Press, 1987); Christopher Lloyd, *The British Seamen, 1200 – 1860: A Social Survey* (Rutherford, N.J.: Fairleigh Dickinson University Press, 1970); Martin Wilcox, “The ‘Poor Decayed Seamen’ of Greenwich Hospital, 1705 – 1763,” *International Journal of Maritime History* 25 (2013): 65 – 90.; David Michael Loades, “The English Maritime Community, 1500 – 1650,” in *The Social History of English Seamen, 1485 – 1649*, ed. Cheryl A. Fury, 5 - 26 (Woodbridge: Boydell, 2012).; Patricia Fumerton, *Unsettled: The Culture of Mobility and the Working Poor in Early Modern England* (Chicago: Chicago University Press, 2006), especially the chapter “Poor Men at Sea: ‘Never to be worth one groat afore a beggar’” 84 – 107.; Jeffrey D. Glasco, “The Seaman Feels Him-self a Man”” *International Labor and Working-Class History* 66 (2004): 40 – 56.

²³ Thomas Robe, *Ways and Means Whereby His Majesty may Man His Navy with Ten Thousand able Sailors, on Short Notice, with less Expence to the Government than at present, and entirely to the Benefit and Satisfaction of the Merchants* (London, 1726).

proudly described themselves as being “bred to the Sea” and that they “used the Seas”, implying their profession was both ingrained and a choice.²⁴ The common sailor exercised a certain level of freedom in his choice of work such as which ship to sign onto and which captain to serve.²⁵ The sailor typically made a steady wage, and a comparatively good one too, and he was allowed to spend that money as he liked when on shore “at liberty”. In court depositions, a sailor almost always described his decision to work on one ship or another as having “shipt himself on board,” an example of the sort of agency a sailor felt for his work.²⁶ This freedom came with caveats to be sure. Once on board a ship, he “belonged” to that ship and that captain and, to an extent, the owners of that ship and its cargo. In cases of impressment, the sailor was said to be shipped. John Clark was “shipt at Montserat by Samuel Randal the Comander of the Ship *Anglesey*” in July 1715, and Captain Samuel Randal “shipt a French Man and boy” when his ship reached the island of St. Nicholas. John Hinton approached an Englishman in Genoa “to be shipt into the Service of a Genoese” after having been stranded there by the captain of an English merchant ship the *Sheffield* on which he served.²⁷ This idea of becoming a

²⁴ Examples: “The Examination of Thomas Simons, 7 December 1710” HCA 1/54 f. 4 - 6; “Examination of John Drummond, 17 December 1717” HCA 1/54 f. 57; “Examination of Robert Stow, 17 December 1717” HCA 1/54 f. 56 - 57; “Examination of Jasper Butler 23 March 1722/23” HCA 1/55 f. 27 - 30, and “Examination of Phillip Roth, 11 April 1723” HCA 1/55 f. 36 - 42.

²⁵ See Denver Brunsman, “Subjects vs. Citizens: Impressment and Identity in the Anglo-American Atlantic,” *Journal of the Early Republic* 30 (2010): 557 - 586, “Men of War: British Sailors and the Impressment Paradox”, and *The Evil Necessity: British Naval Impressment in the Eighteenth-Century Atlantic World* (Charlottesville: University of Virginia Press, 2013).

²⁶ “Examination of James Turner, 12 January 1716” HCA 1/54 f. 36 - 37, “Examination of Walter Cannady (alias Kennedy), 28 April 1721” HCA 1/54 f. 121 - 122; *To the King’s Most Excellent Majesty The humble Petition of Edward Davies, John Hinson, and Lionel Delawafer*, HCA 1/53 f. 185-186, “The Examination of John Liell als Lyth, 28 October 1710” HCA 1/53 f. 3.

²⁷ “The Information of John Hinton, 25 October 1720,” HCA 1/54 f. 116 - 118.

possession of the ship was so complete that desertion from a merchant ship was considered a felony, and from a naval ship a crime punishable by death.²⁸

The law granted captains incredible latitude in regards to the treatment of their sailors, but also constrained captains in similar ways and made them beholden to the owners of ships and cargos first and foremost.²⁹ The emergence of formalized wage labor and written contracts in maritime employment served to tighten the connection between captains and shipowners at the expense of the relationship between captains and their crews.³⁰ This relationship hinged on the protection of goods, rather than the protection of the men who transported those goods. A sailor could be “set on Shoar” at the captain’s discretion in cases where there were too many hands and not enough food, or if the sailor’s labor no longer translated into profit. Many sailors described being literally abandoned by their captains.³¹ John Curtis told the Admiralty in 1720 that he was an apprenticed shoemaker before he was “imprest into the Service of a British Man of War,” after which he served on various other British Man of War for four years before entering

²⁸ See Anonymous, *The Laws Concerning Travelling, &c.*, (London, 1718), especially the section “Of Water-Carriage”, 119 – 155.

²⁹ The laws regarding piracy were at first piecemeal and reactionary, but were made perpetual in 1700 and again 1715 and 1719. Henrician legislation (28 Hen VIII, c.15, 1536) and expanded under William III (11 and 12 WM III, c. 7). See Alfred P. Rubin, *The Law of Piracy* (Newport, R.I.: Naval War College Press, 1988) and Rediker, *Villains of All Nations*, 26 – 28.

³⁰ Marcus Rediker, *Between the Devil and the Deep Blue Sea: Merchant Seamen, Pirates, and the Anglo-American Maritime World, 1700-1750* (Cambridge: Cambridge University Press, 1987).

³¹ Paul A Gilje describes a similar situation for mariners in the War of 1812 where sailors were often “men without countries”, who did not perceive themselves as belonging to a nation longer than temporarily because of the fluidity of employment and the hazards of seafaring in wartime. Sailors often negotiated for their self-interest, but others were fiercely loyal to their nation. *Liberty on the Waterfront: American Maritime Culture in the Age of Revolution* (Philadelphia: University of Pennsylvania Press, 2004), 114.

himself onto the English merchant ship *Aleppo Hunter* on a voyage to Venice. Falling ill over the course of that trip, he was “left there sick” in Venice. While he attempted to find passage back to England, he was “forced into the Service of a Ship of Venice against the Turks,” but made his escape after seven months in Corfu. Curtis there found another English merchant ship called the *Levant Gally* and agreed to work on her in exchange for “his passage and Provisions.” Having too many hands on board and not enough wages, Captain Carryl of the *Levant Gally* gave Curtis permission to sign on board another English ship when they reached Hume, this one called the *Isabella*. The *Isabella* proceeded to Malta where it stayed for three months. One day, Curtis and a fellow crewmember Richard Baxter were on shore when the *Isabella* “sailed away without them.” Again Curtis was left somewhere far away from home and with no real prospect of returning. To make matters worse, while he and Baxter were stranded at Malta, “the Grand Master of Malta made an Order that no English or French Men should be permitted to go off from the Island.” Curtis, Baxter, and another Englishman in similar circumstances, Francis Allen, “were by force carryed on board of a ship of War called the *Queen of Peace* in the Service of the King of Spain under a Guard of 8 or 9 Musqueteers.” Several other Englishmen were afterwards brought aboard in a similar manner, and all were “forced to continue in the said Service till the said Ship was taken in fight by his Majesty’s Ship the *Rupert*.”³²

³² “Examination of John Curtis, 4 July 1720,” HCA 1/54 f. 108. Curtis believed so strongly in his innocence, that he refused to eat while awaiting trial.

Curtis' fellow prisoners Thomas Fitzgerald, William Curtis described their journey to the *Queen of Peace* in much the same terms. Fitzgerald served on "several English Ships of War and Merchant's Ships" until he was stranded in Naples where he attempted to get back to England via service on foreign merchant ships.³³ William Curtis "hath used the Seas for Nine years" in the British Navy until the end of the War of Spanish Succession when he was out of work. After signing on to an English merchant ship called the *Prince George*, he and his crew were taken by Spanish privateers in the Atlantic. Most of the crew, and the captain, were let go, but Curtis found himself a Spanish prisoner in Mexico for seven months, then transported and confined in Cadiz for almost two years. From there he was "put by force" on board a Spanish vessel and "compelled to serve in her to Malta", where he was "by force carried under a Guard of Soldiers" on board the *Queen of Peace*.³⁴ Richard Baxter escaped the *Queen of Peace* in Barcelona and no record exists of him after this.

Many sailors, brought before the High Court of Admiralty on suspicion of piracy, could recount a similar experience of abandonment or being stranded by their British captains in some faraway land, and used this experience as justification for their entering one enemy ship or another. All of these men, before they were forced into some enemy's service, had been abandoned by the nation they served and were now just trying to get home by any means possible, because they considered themselves part of Great Britain first and foremost. Ties to family, friends, birthplace, maybe even the nation itself, all

³³ "Examination of Thomas Fitzgerald, 4 January 1720," HCA 1/54 f. 105 – 106.

³⁴ "Examination of William Curtis, 4 January 1720," HCA 1/54 f. 109 – 110.

fueled a desire to take control of their circumstances against the odds and return to their homes. Thomas Fitzgerald did so when he “ran down into the hold because they would not act in an Engagement” against “English Men of War.”³⁵ John Curtis protested often and loudly against his forced service, despite his being “beat and put into Irons for 6 Days ... for desiring to be discharged and refusing to act.”³⁶ William Curtis was also “several times beat and put in Irons for refusing to act on board” and went as well on a veritable hunger strike in an attempt to be sent home to England.³⁷ John Matthews was taken by pirates off the coast of Guinea and stated several times that he pleaded with the pirate captain, (the unfortunately named) Jeremiah Cocklice, “several times to let him the Examinee come again to England,” but Cocklice “refused to let him go telling him that he needed hands and must go with her otherwise he would shoot him which he offer’d to do several times upon the Examinees refusing to work on board the said Ships.” Matthews only escaped when the pirates met an English merchant captain off the island of Johanna who believed him when he said he was forced on board Cocklice’s ship, but when he finally reached the Thames, found himself “taken from onboard by the Lds of the Admty and carried to Marshalseas Prison where he has continued since.” The Court eventually determined that Matthews only worked “for preservation of his life seeing no possibility there to get off.”³⁸ If and when these lost sailors returned, it was in chains for

³⁵ “Examination of Thomas Fitzgerald, 4 January 1720,” HCA 1/54 f. 105 – 106.

³⁶ “Examination of John Curtis, 4 July 1720,” HCA 1/54 f. 108.

³⁷ “Examination of William Curtis, 4 July 1720,” HCA 1/54 f. 109 – 110.

³⁸ “Examination of John Matthews, 12 October 1722,” HCA 1/55 f. 20 – 21.

an extended stay at the Marshalseas Prison until the Admiralty could determine whether or not they deployed their agency and used their labor to betray their nation.

At least in part, “bad usage” and abandonment at the hands of captains stemmed from the fact that every laborer on board a British ship belonged to the owners and to their cargo, captain included.³⁹ The Court concerned itself with captains who endangered or destroyed the cargos of which they were in charge. Thus was Joseph Stratton brought before the Admiralty on charges of trading with pirates off the coast of Madagascar, and Owen Henry tracked down for fencing stolen goods in Sierra Leone. Richard Tookerman, master of the *Adventure* was brought to trial not for the “very notorious Crimes in his Majesty’s Collonies” of which he was suspected, but for attempting to defraud the owners of his cargo by faking a pirate attack.⁴⁰ Richard Mollington not only fought with several members of his crew, but willfully endangered them by manufacturing his ship’s ruin by “the beating out of Pluggs,” hiding the tools necessary to fix the subsequent leaks, and attempting to disable the lifeboats.⁴¹ Mollington was brought before the Court to answer for defrauding the merchants whose cargo went down with the ship. Some sailors suffered devastating violence at the hands of their captains, and some captains were almost certainly sadists who took advantage of their positions of power. Captains like Henry Glaze of the *York Merchant* and John Shephard of the *Borneo* were a mariner’s worst fear. Glaze “without any other Cause or reason

³⁹ Anonymous, *The Laws Concerning Travelling, &c.*, 119 – 132.

⁴⁰ “Information of William Swale, 27 September 1721,” HCA 1/54 f. 130 – 131.

⁴¹ “Information of Thomas Kipling, 6 June 1716,” HCA 1/54 f. 32 – 33.

whatsoever violently assaulted and beat ... Patrick Deveraux with a Cane in a very cruel and barbarous manner and untill the said Cane was split and shivered into several pieces.”⁴² In 1719, Shepherd beat his cooper, Robert Mayor, with a

long Tar Brush ... in a very cruel and unmercifull manner, with great Violence and all his force and Strength gave him many Blows... at least thirty upon his head Arms and Shoulders and thereabouts, until he had broak the said Brush and then went away and sat down in the larboard Gangway and rested himself, and then returned and renewed his Assault with the end of the said Brush.

Shepherd then ordered Mayor’s “Body ... sewed up in his hammock ... to prevent any persons from seeing the Marks of the aforesaid Blows.”⁴³

Violence, and the threat of violence, loomed always on the British sailing ship, especially where issues of labor and sailors’ control of it were concerned. John Leake, John Tunbridge, Joseph Matthews, John Wyat, Benjamin Berkley, William Bedford, and Richard Chester all left the *Neptune Gally* after they were “beat and abused by the Mate and Boatswain” and were “discontented” as a result.⁴⁴ Tunbridge stated “the reasons they so left the said ship was because the ship had not hands enough on board to work her and they were pinched in their Provisions, and John Leake was beat so much by the Boatswain that he was not able to lift his hand to his head.”⁴⁵ Thomas Blood testified before the Court that Peter Dorking, commander of the ironically named English merchant ship *Welfare*, beat to death his foremast man, Charles Ellis, “with a Rope of

⁴² “Information of Peter King, 26 October 1716,” HCA 1/54 f. 36.

⁴³ “Information of John Hill, 17 June 1721,” HCA 1/54 f. 126 – 127.

⁴⁴ “Examination of John Leake, 2 November 1706” HCA 1/53 f. 162

⁴⁵ “Examination of John Tunbridge, 12 November 1706,” HCA 1/53 f. 162 – 163.

about one Inch and a quarter thick in a very cruel barbarous and inhuman manner.”

According to Blood, Dorking murdered Ellis “because the said Ellis refused to work for so long a time on a Sunday [since] the Ship was not in any manner of Distress.”⁴⁶ Several of Roberts’ crew in 1722 described meeting former captains or quarter- masters who had misused them by withholding provisions. John Philps accosted Captain John Wingfield of the *Elizabeth* “calling him a super Cargo Son of a B---h that he starved the Men, and that it was such Dogs as he put Men on Pyrating,” and after joining Roberts’ crew from the *Onslow*, John Stevenson asked that he be allowed to “cut [his former] Chief Mates Ears off” for starving and overworking him.⁴⁷ The overwhelming amount of grievances listed against captains in court depositions were not in the context of a captain on trial, but rather used as explanations for a sailor’s desertion. It was rare that a captain be brought before the High Court of Admiralty for abusing his sailors unless in extreme cases such as Glaze and Shepherd.

Further constraining the sailor’s labor were specific naval policies aimed at doing so. The law clearly stated that the British government had the power, if not the duty, to force sailors into service through impressment. The clearly articulated goal of this policy was to maintain the British merchant trade while at the same time manning the British naval ships protecting that trade. As England entered the “Second Hundred Years War” with France, the need for sailors in the British Navy increased, while England’s Atlantic

⁴⁶ “Information of Thomas Blood, 9 September 1715,” HCA 1/54 f. 26 – 27.

⁴⁷ “Trial of John Philps, 7 April 1722” HCA 1/99/3 f. 102; from “Trial of John Walden, 4 April 1723” HCA 1/99/3 f. 73

trade experienced a similar need in order to fund the next century of wars. The government, hemmed in by a constitutional monarchy and Parliamentary concerns of standing armies and taxes, focused on a campaign of impressment into the Navy despite its having almost twice the number of available sailors than France.⁴⁸ Sailors complained of the loss of their traditional liberties including good wages and the ability to choose their ship, and many simply did not sign on board Navy or merchant marine vessels. When the government resorted to force via impressment, desertion rates went up across the board. The answer to this problem seems obvious now, and even then the Navy Board said in November 1703,

the present difficulties in manning the Royal Navy [owe] to the departure from the ancient rules of the Navy in the beginning of the last war (when the men were paid off yearly, or every voyage), to too often making loans, removes, turn-overs, and keeping and paying them on board the ships from year to year, where they have no opportunity of making use of their money or to enjoy their families.⁴⁹

In *Tack About; Or, A New Model of a Marine Establishment, for Raising Seamen For the Continual Service of Her Majesty's Fleet*, the author spoke of “this Opinion a Seaman has of his own abilities” as the central impediment to voluntary service. From “whant [of] an Ingenuous Education” and “a Natural Surliness, or Moroseness of Temper,” the sailor claimed his liberty “as *Desert*” rather than recognizing that liberty as an

⁴⁸ Denver Brunsman accurately states the problem, Britain “did not have enough sailors to man its navy at full wartime levels while keeping its merchant marine at full peacetime levels...its fiscal-military state could not afford to function without the tax revenue provided by trade during wartime,” in “Men of War”, 20. See also John Brewer, *The Sinews of War: War, Money, and the English State, 1688 – 1783* (New York: Alfred A. Knopf, 1989).

⁴⁹ Reginald Dundas Merriman, ed., *Queen Anne's Navy: Documents Concerning the Administration of the Navy of Queen Anne, 1702 – 1714* (London: Navy Records Society, 1961), 183.

“*Encouragement*” bestowed on the sailor by the State as a reward.⁵⁰ Sailors detailed their grievances with captains in ways that reflected the larger structural problems with capitalism and its ability to constrain the liberty of sailors while the State envisioned a vastly different conception of a captain’s authority over sailors. These competing views clashed in the courtroom, as sailors articulated “liberty perceived”, and the State, “liberty lived”. After having been cheated, tricked, or abandoned by their British captains, they used the only means they had to make their way back to England – their labor. They were not villains of all nations, but were more accurately, men of no nation. Sailors were left in the far corners of the world, held in far lower esteem than the material goods they transported, knowing their captains would not be punished for leaving the goods of men’s bodies, but rather for the destruction of men’s goods. It was no wonder that many seized the opportunity offered by piracy – to be their own men, the masters of their own fates.

“A Volunteer among such Villains”: The Question of Force and Possession

By the early eighteenth century, the nature of sailors’ work was almost unrecognizable by seventeenth-century standards. Similar to the transformation of labor for industrial capitalism described by EP Thompson, the liberty enjoyed by sailors before the emergence of capitalism in the eighteenth century was replaced by a system intended to constrain, harness, and utilize the sailor’s labor for the service of the British Empire.⁵¹ It was the desire for profits that fed the desire for laborers, and the means by which to

⁵⁰ C.W., *Tack About; Or, A New Model of a Marine Establishment, for Raising Seamen For the Continual Service of Her Majesty’s Fleet. Being A Plain, Easy, and Practicable Method to Raise Seamen upon any Juncture Sufficient Speedily to Man a very Considerable Fleet, and Defend Our Trade: Without the Excessive Charges of Impress-Money, Impress-Lieutenants, Patches, or County-Money* (London, 1703).

⁵¹ Brunsman, “Men of War”, 25.

own that labor completely was through the removal of agency. The issue of “force” was therefore of crucial concern to sailors and government alike in the trials of suspected pirates. Testimony of sailors brought before the High Court of Admiralty on suspicion of piracy is rife with claims of being forced on board pirate ships against their wills. These testimonies often tell of those same sailors being forced or otherwise deprived of their liberty by the British naval or merchant service. The Court took seriously the claims of men being forced on board pirate ships. But if they allowed every sailor who based his innocence on this defense, there would be no one to condemn - and the British government needed pirates to hang. The determination of forced or not depended on an implicit recognition of the agency exercised by sailors, described by the Court within the context of their “behavior.” Yet the Court struggled to define the line between liberty and compulsion. Robert Johnson stood accused as a member of Roberts’ crew, and despite his former British captain’s oath that he was forced, this assurance “was justly of little Weight ... Chiefly on the ill Behaviour, and Villainy committed Since for it a Man’s being honest once was allowed to excuse his Subsequent Rogueries there were few ... but could have clear’d their Innocence.”⁵² It was the body that would provide the boundaries. For example, a sailor who cried or was otherwise described as melancholy, refused to work, or tried to escape was exercising an appropriate form of agency – namely, that agency was directed to the noble end of remaining a loyal British subject and supporter of the system from which he was removed. On the other hand, a sailor who actively worked on board a pirate ship in any capacity, participated in the inverted lifestyle of piracy by

⁵² “Trial of Robert Johnson, 9 April 1722,” HCA 1/99/3 f. 114.

carrying arms or wearing the clothes typically reserved for his social betters, or enacted any sort of violence on British subjects used an inappropriate form of agency and therefore had no claims to force.

This helps to explain why so many sailors accused of piracy relied on the defense that they were forced, and why the Court let so many get away with it. The records do not support that so many would have been forced on board, but saying so acted as both a confession and an apology. The use of force by pirates allowed the State to save face when the line between capitalist and criminal remained too blurry. Even if a British sailor believed his labor belonged to England as part of his responsibility as a British subject, there was little in his experience to maintain the illusion that his value as a British laborer meant anything to his government. That sailors were oftentimes treated worse than the goods on board the ship did little to encourage faith in the empire they served; that their cruel masters escaped punishment more often than not served to ignite simmering feelings of resentment. For every pirate who made the headlines as a result of some spectacular act of mutiny or ending an illustrious career, there were ten ordinary sailors who found themselves before the High Court of Admiralty, suspected of piracy or engaging in “piratickal Acts”. These sailors tried desperately to convince the Court that they were not responsible for any action while on a pirate ship or foreign privateer. In doing so, the sailor intentionally divested himself of agency in order to escape condemnation. Trial records from the High Court of Admiralty illustrate the myriad problems posed by pirates in regards to possession of the sailor’s labor, and the level of accountability attached to that demonstration of agency. The process by which each man

was found either guilty or innocent, and if guilty, what type of execution awaited him, relied on the answers to several questions. These questions relied on physicality and its impact on the extent to which the accused exercised agency over himself. First, was the sailor forced on board the pirate ship, and how could the Court know this for sure? Second, while on board the pirate ship, what actions did the sailor take to either aid or impede “piratickal acts”? In these actions, how much was the sailor in control of himself, and how to gauge the degree of that command? Finally, what physical space did the accused occupy while crimes were committed, and how vigorous or not was he in that space while committing a crime against a British vessel?

The issue of force was one of perspective. There were some sailors who were clearly forced into the service of a pirate, restrained and carried on board with no viable means of resistance. Thomas Bryan testified to the Court that he was “bred a Mariner in the English Service” and served faithfully on several English merchant ships. On leave in Gottenburg, a Swedish pirate “told [Bryan] that he ... should go with him and ordered his Men to handcuff [Bryan] which they accordingly did and then carryed him on board the said Privateer.”⁵³ Henry Hunt was convicted of piracy after the ship he commanded, the *Sarah*, met Edward England’s pirate fleet in the River of Gambia. Hunt testified that the pirates “beat him with their Cutlasses and threatned to kill him,” “burn his said Ship,” and “forced [him] to go on board ... and ordered him to take Charge of her as Pilate of her and threatned to blow out his Brains if he suffered her to touch the Ground.” He emphasized to the Court that “he ... was very unwilling and refused ... they forced him

⁵³ “Examination of Thomas Bryan, 3 May 1717,” HCA 1/54 f. f. 43 – 44.

into their Service,” that he was “compelled ... to pilot her down the said River” where the pirates took an English ship called the *Coward*, and looted her of some goods “and threw the rest over board” before burning the ship.⁵⁴ Though Hunt claimed to have been forced, the captain of the *Coward*, Thomas Creed, informed the Court that when his ship was taken, “Henry Hunt was then on board the said pirate Vessel and piloted her at the time when she chased and took the Informant’s said Gally and the Informant beleives that if the said Henry Hunt had not piloted the said Sloop and directed her Company in the Chase of the said Gally she would have escaped and had not been taken.” Further damaging Hunt’s credibility, Creed testified that he witnessed Henry Hunt carry some of the *Coward*’s cargo onto the pirate ship, and that Hunt was clearly “at Liberty” and “was or seemed to be voluntarily very active in the Service of the said Pirates and was always very civilly entertained and respected by them.”⁵⁵

Sailors retained possession of their agency when they sailed on a pirate vessel under false pretenses, but when brought in for examination, willingly acquiesced to the Court’s desire that his labor be first and foremost the possession of the British State. The difficult cases for both mariners and the Court were those where “forc’d” was synonymous with “tricked”, or where service on a suspected pirate ship seemed the result of misinformation and deliberate concealment. Such was the case for Jasper Butler and some of his fellow crewmembers, serving under pirate captain Phillip Roth. It seems from the records that Roth used several aliases including “Rossiter” and “Roche”, as well

⁵⁴ “Examination of Henry Hunt, 27 September 1720,” HCA 1/54 f. 116 – 117.

⁵⁵ “Information of Thomas Creed, 27 September 1720,” HCA 1/54 f. 115

as middlemen when hiring seamen, and fashioned himself captain of a British merchant vessel.⁵⁶ The subsequent voyage seemed legitimate until the ship reached Scotland and anchored for several weeks in the River Clyde, where Roth left the ship and was not heard from again. Butler and the crew began to get nervous, and reasonably so, since “on the 30th of October last they were called on Shoar by the Surveyor of the Customes at Greenoak and carryed before Sr John Shaw and kept in Custody ... about 12 hours before they knew the reason of their Confinement.”⁵⁷ Each member of the crew examined by the Court testified to some iteration that they “believ[ed] that the said Vessel was called the *Ann* and that she belonged to Bristol.”⁵⁸ So long as the defendant attested that he believed himself in the service of a British vessel, then the Court tended to treat him as they would a mariner who was forced against his will into acts of piracy. Many other mariners were caught in similar situations, compelled to relinquish momentary agency in order to justify their being in the wrong place at the wrong time. This concern over “force”, in all its definitions, was of central importance for the most successful commercial empire in the Atlantic. The trend of piracy after 1713 endangered overseas trade, the lifeblood of the British empire. If she could not control her own subjects, how was Britain to be trusted with goods? When sailors attested that they had been forced against their will, or tricked into piracy, the British government could then shift the blame onto those who willingly

⁵⁶ “Examination of David Stretch, 23 March 1722/23,” HCA 1/55 f. 33 – 34.

⁵⁷ “Examination of Jasper Butler, 23 March 1722/23,” HCA 1/55 f. 27 - 30

⁵⁸ Ibid.

and openly dispossessed merchants in the empire of their goods and threatened their livelihoods – pirates. But how to tell the forced from the fanatical?

“he had a Mind to go to Cabo Corso and be hanged”: Guilt, Innocence, and the Body

The process by which the Court determined guilt and innocence in regards to force is best illuminated by the 1722 trial of Roberts’ crew at the notorious slave-trading post, Cape Coast Castle.⁵⁹ In the spectrum of testimonies and verdicts handed down during this trial, the role that physicality played in condemnation was clear. This was a high-profile trial of over one hundred men that took place at a critical moment in the British Empire’s fight against piracy.⁶⁰ After 1723, the number of pirates would begin to decrease, and the pirates terrorizing the seas were of a different, more violent breed than those who came before them.⁶¹ The Court handed down the full spectrum of sentences:

⁵⁹ That this trial takes place in an environment like this, where its existence is based on an entire economy built on the slave trade is another story.

⁶⁰ Roberts’ capture was reported in no less than fifteen Atlantic newspapers, across several months. “London, April 3.” *American Weekly Mercury*, Thursday July 1 – July 8, 1722; Issue 290 p. 3.; “Bristol, June 18.” *Evening Post*, June 19 – June 21, 1722; Issue 2012.; “London, July 5.” *Evening Post*, July 3 – July 5, 1722; Issue 2018.; *Daily Courant*, July 6, 1722; Issue 6461.; *Daily Post*, July 6, 1722; Issue 864.; *Daily Journal*, August 29, 1722; Issue CCCCXCIX.; “Philadelphia, August 23.” *New England Courant*, September 3 – September 10, 1722; Issue 58.; “Barbadoes.” *British Journal*, Saturday September 29, 1722; Issue 2. Captain Chaloner Ogle even turned a profit on the death of Roberts, publishing in 1723 an account of his exploits. “This Day is Publish’d.” *Daily Post*, January 3, 1723; Issue 1019.

⁶¹ Rediker lays out a convincing timeline for the Golden Age of Piracy, divided into three stages. The first occurred between the Peace of Utrecht in 1713 and lasted until 1716, where the privateers previously employed by the British government to attack Spanish and French trade found themselves without a commission and, instead of melting back into the pool of unemployed sailors, became pirates with commissions only from themselves. The second lasted from 1717 to the capture of Roberts’ crew in 1722. This phase “was the greatest period of the golden age, the time when more than 70 percent of all prizes were captures, and indeed the time that produced the most enduring images of pirates.” It was in this stage, according to Rediker, that the main purpose of pirates was not simply “booty,” but “the perpetuation of a ‘life of liberty’.” The third stage began with the capture of Roberts’ crew and lasted until 1726 when Rediker asserts that the Golden Age came to an end. In this stage, the “dialectic of terror” between pirates

acquittal, imprisonment in London's Marshalsea Prison, execution by hanging, and hanging with the additional ignominy of the gibbet. This variety, as well as the completeness of the trial itself in the records, provides an opportunity to understand how each sentence was reflective of some decision made about the agency of a pirate, and how that agency was interpreted through the body. Because the Court found it difficult to negotiate the competing perceptions of agency – who had it, when, and to what extent – the determination of guilt or innocence depended on the physicality of the body. Specifically, the line between guilt and innocence was drawn along considerations of position, deportment, and adornment of the body. Each of the men pleaded not guilty to the indictment, but “owned himself to be one of those taken” out of Roberts' *Ranger* or *Royal Fortune* when they attacked Captain Ogle and the *Swallow*.⁶² That the accused “owned himself” laid the groundwork for further guilt. In this trial, it becomes painfully apparent that once an accused man “owned himself”, the task of proving his innocence became a difficult one. It was again incumbent on the accused to demonstrate that even if he occupied the physical space of the pirate ship, he was not in total control of himself while there. Most said in their defense “that they were forced Men ... and what other Assistance they might lend on this Occasion was thro' a Terrour of Death, which they said they were sure wou'd be their Portion shou'd they refuse.”⁶³

and State turned equally violent on both sides, as pirates “fought less for booty than for their very survival.” *Villains of All Nations*, 35 – 37.

⁶² HCA 1/99/3 f. 7 – 8.

⁶³ HCA 1/99/3 f. 8.

Substantial evidence was brought either for or against the sailor's claim of force. Thereby was Stephen Thomas acquitted on the evidence of Captain Trahorn who said Thomas "did beg [him], to apply to Roberts, and his Company for a Discharge for him, that he was very melancholy," and Thomas Castles who testified that Thomas "wou'd have been glad to have got from the Pyrates, and made Application to the Company for it, [but] The Quarter Master of the Pyrates beat him, and forc'd him in." It helped Thomas' case, certainly, that before finding himself on Roberts' ship, he was the master of his own vessel and the Court considered it "unlikely a Master of a Vessel at l. 6 a Month shou'd be a Volunteer among such Villains."⁶⁴ Henry Dawson hoped the Court might consider that although he was on board the pirate ship, it was only after his own ship had been burnt, and that he had "14 Months Pay due and [was] therefore unlikely to be a Volunteer," and was acquitted on that fact.⁶⁵ Edward Crispe testified on behalf of William Champries that he "he was often weeping and said he wou'd make his Escape whenever he cou'd," and the plans for that escape were supported by Robert Lillburn who had consulted with Champries "of Means and provided for running away in the Boat belonging to the Pyrates but these their good Designs were discovered while in Embrio." The Court's acquittal hinged on Champries' claim that he was "forced from a good Employ being 2d Mate" of the *Lloyd* galley.⁶⁶ The Court acquitted William Child for similar reasons, as "his being in a Pirate Ship was not only much against his Inclination

⁶⁴ "Trial of Stephen Thomas, 29 March 1722," HCA 1/99/3 f. 16 – 19.

⁶⁵ "Trial of Henry Dawson, 31 March 1722," HCA 1/99/3 f. 47.

⁶⁶ "Trial of William Champries, 15 April 1722," HCA 1/99/3 f. 80.

but his Interest having a good Employ whereon to build and friends to advance him in the World in an honest and reputable Way of Livelihood.”⁶⁷ William May said in his defense that “he had a Wife and Family, that was too near him to think of leaving for such a Life as Pyrating.”⁶⁸ In these cases, physicality as evidence of guilt was laid aside for the much more understandable argument that membership in a certain class precluded inclinations to piracy. The idea that men of substance, both moral and financial, would go upon the Account seemed unfathomable to the Court, a dispensation not afforded to the accused of lower status. In the case of Thomas Wills, called “Presbyterian” by the pirates, “The Court thought it a Pity so Godly a Man shou’d have been so long in such ill Company.”⁶⁹

Other considerations often supported the assertion of being a forced man. James White “Appear’d to be decrepid, unfit for any Purpose with them, but Musick” and so was acquitted on account of his infirmity.⁷⁰ Another musician, Philip Haack, “insist[ed] on his being a decrepid little Fellow unfit for their Purpose.”⁷¹ The Court considered William Guinneys “a Man fit only to be Commanded”, and so could not be held accountable for any of his actions aboard the pirate.⁷² Richard Wood was acquitted on account of his being “lame”, and Edward Tarlton for being sick from the time of his ship

⁶⁷ “Trial of William Child, 15 April 1722,” HCA 1/99/3 f. 79.

⁶⁸ “Trial of William May, 30 March 1722,” HCA 1/99/3 f. 32.

⁶⁹ “Trial of Thomas Wills, 14 April 1722,” HCA 1/99/3 f. 151.

⁷⁰ “Trial of James White, 1 April 1722,” HCA 1/99/3 f. 48.

⁷¹ “Trial of Philip Haack, 31 March 1722,” HCA 1/99/3 f. 33.

⁷² “Trial of William Guinneys, 3 April 1722,” HCA 1/99/3 f. 59.

being taken to the pirates' capture by the *Swallow*.⁷³ Another consideration was the extent to which, denied liberty by the pirates and so agency, the accused attempted to regain his liberty. Escape attempts from service on the pirate ship were marks in favor of acquittal, especially if considerable effort was expended to that end such as those "with the utmost Hazard of his Life."⁷⁴ Benjamin Parr was not only a man of good standing and employ, but made three escape attempts despite his being "always sent for again and beat and misused for it."⁷⁵ The pirates forced Robert Hartley into their service and beat him after "he had several times endeavoured to get off."⁷⁶ The Court considered both Thomas Stretton's young age and testimony that Stretton proclaimed "he wou'd try the Mercy of the Seas to obtain his Liberty rather than stay where he was."⁷⁷ Escape attempts verified to the Court that the accused agreed with the prevailing notion that pirates operated outside the boundaries of civil society, as well as those laws "humane and divine". Escape evinced a distaste for the lifestyle of those who chose to be "wickedly united, and Articled together," as well as a deep and abiding respect for the laws "to which Ye ought to have been Subject."⁷⁸

⁷³ "Trial of Richard Wood, 3 April 1722," HCA 1/99/3 f. 62; "Trial of Edward Tarlton, 3 April 1722," HCA 1/99/3 f. 67.

⁷⁴ "Trial of Henry Glasby, 31 March 1722," HCA 1/99/3 f. 50-53.

⁷⁵ "Trial of Benjamin Parr, 3 April 1722," HCA 1/99/3 f. 66.

⁷⁶ "Trial of Robert Hartley the 1st, 3 April 1722," HCA 1/99/3 f. 64.

⁷⁷ "Trial of Thomas Stretton, 3 April 1722," HCA 1/99/3 f. 60.

⁷⁸ "The Tryals of the Pyrates (lately taken by his Majesties Ship the *Swallow*) by a Commission from the King under the Seal of Admiralty Begun at Cabo Corso Castle on the Coast of Africa, March the 28th 1722," HCA 1/99/3 f. 3.

However, even an alleged escape attempt was not enough to fully convince the Court of a man's innocence. Captain Trahorn deposed to the Court that John Lane asked him to lobby Roberts for his discharge as he was a soldier when Roberts wanted only sailors. When this discharge was denied, Lane found himself thwarted in an escape. The problem for Lane was that George Fenn testified he "cou'd not be Positive, whether he was forced or a Volunteer", and Stephen Thomas "saw him [Lane] in Arms ... flourishing his Cutlass on the Fore-Castle," urging Roberts to take a French prize, cursing "Da-n You give the French Ship a Broad Side!"⁷⁹ Thomas Athelonce attempted to leave the pirates at Calabar, "but that it was among Canibals, a worse Choice than where he was," prompting the Court to condemn him but respite his execution until they heard the judgment of the King.⁸⁰ The Court condemned James Greenham although he claimed to have been sick for the entirety of his time on board the pirate, and "wou'd have made his Escape, but that it must be among Negroes" and so stayed aboard.⁸¹

This gray area between forced and not forced was shaped by several factors. Considerations of class prompted the Court to overlook the physical evidence on which they otherwise relied to condemn others. Membership in the better sort was proved by strong family ties, employment, and even religion. Those who could not claim membership in this class were judged according to their actions while on board the pirate ship. Lane may have pleaded for a discharge, but he remained armed on board the pirate

⁷⁹ "Trial of John Lane, 30 March 1722," HCA 1/99/3 f. 29.

⁸⁰ "Trial of Thomas Athelonce, 30 March 1722," HCA 1/99/3 f. 40.

⁸¹ "Trial of James Greenham, 4 April 1722," HCA 1/99/3 f. 75.

and appeared to others to have embraced the spirit of piracy, going so far as to challenge Roberts at his own game. This assessment in turn relied on the level of agency exercised by the sailor. There was no rubric for how many attempts were made at escape be it one or three, or how many times and in what manner a man was beat by the pirates, nor a certain count of how many tears were shed and to how many witnesses. The disparity between convictions and acquittals illuminates the Court's central problem when it came to pirates – the pirate was a “common enemy of mankind” because the pirate was an enigma. His motivations could not be explained by the standard metric of criminality in the early English Atlantic world. Men like Thomas, Dawson, and Champries fit into a neat and necessary dichotomy for the continued development of trade in the British Empire; but when the traditional moral restraints of economic stability and community ties were removed from the equation and the common sailor and ordinary seaman remained, disenfranchised and downtrodden, it was the body which remained as a marker for the criminal or the saint.⁸²

“Referr’d to the Marshalseas”: The Ambiguity and Markers of Control

The clearest example of this gray area and the centrality of the body as a final determinant for the Court, is the men who were neither condemned nor acquitted, but ordered to the Marshalsea prison in London. Of the seventeen men committed to the Marshalseas, five were considered incapable of engaging fully in piracy because of some

⁸² Keith Wrightson in *English Society, 1580 – 1680* (New Brunswick: Rutgers University Press, 1982) details the social and communal restraints of early modern English society, and how concerns over the loss of these restraints were transformed into political issues by the eighteenth century such as vagrancy laws, the Poor Acts, and other attempts by the State to impose control over the lower sorts once removed from ties of family and community.

physical or mental infirmity limiting their activity. These infirmities were not enough to recuse them from some small level of responsibility for their actions. Hercules Hunkins was “reckoned a soft silly Fellow,” and John Willden appeared to witnesses a “half-witted Fellow, and ever in some Monkey like foolish action.”⁸³ Testimony that James Harris went on board several prizes was counteracted by witnesses who said he was “lame, and unfit for Duty,” as well as “ill” most of the time they saw him.⁸⁴ Robert Fletcher was too “ignorant” and George Ogle was beat so often for his poorly completed tasks he was thought “lame”.⁸⁵ In another case, not a single witness remembered ever seeing James Couzens on either of the pirate ships or any prize. Couzens’ case confused the Court so much they simply sent him to the Marshalsea.⁸⁶ Conflicting witness testimony as to the precise location of John Rimer at any of the prizes prompted the Court to refer him to the Marshalsea.⁸⁷ Henry Graves similarly perplexed the Court, as John Wingfield could not be certain if he was on board any prizes, and another witness could only speak in general terms about how many pirates he saw on board a prize. Graves himself simply stated he “kept out of the way.”⁸⁸

⁸³ “Trial of Hercules Hunkins, 16 April 1722,” HCA 1/99/3 f. 162; “Trial of John Willden, 10 April 1722,” HCA 1/99/3 f. 123.

⁸⁴ “Trial of James Harris, 15 April 1722,” HCA 1/99/3 f. 78.

⁸⁵ “Trial of Robert Fletcher, 16 April 1722,” HCA 1/99/3 f. 162; “Trial of George Ogle, 17 April 1722,” HCA 1/99/3 f. 166.

⁸⁶ “Trial of James Couzens, 17 April 1722,” HCA 1/99/3 f. 166.

⁸⁷ “Trial of John Rimer, 17 April 1722,” HCA 1/99/3 f. 164.

⁸⁸ “Trial of Henry Graves, 17 April 1722,” HCA 1/99/3 f. 163. I have a sneaking suspicion these three men were just trying to get back to England whatever way they could, and a stay in the Marshalsea would do the trick.

The Court acknowledged that while five of the accused were certainly on board the pirate ships, perhaps voluntarily, they were too drunk to be of any real use to the pirates, and referred them to the Marshalsea. Once alcohol (and copious amounts of it) were introduced into the equation, the accused could no longer be held entirely responsible for his actions while on board. Thomas Athelonce, whose sentence was respited and eventually commuted to imprisonment in the Marshalsea, “owned his being on Board, and the Robbery but that any Irregularities he might commit, was thro’ Drink.”⁸⁹ Others testified to his “Irregularities” which included parading about prizes with the captain’s wig and clothes. The single witness against Robert Devins swore “he never see him Sober Scarce, or fit for any Duty, while he was on Board the Pyrate.”⁹⁰ Christopher Lang almost certainly signed the pirate’s Articles voluntarily, but since he “was a drunken Fellow, and of no Esteem among the Gang, they abusing him and often calling him Drunken Dog ... that they brought out of the Brigantine for Charity”, and kept “the poor fool allways at work on the Sails as a Slave,” the Court referred him to Marshalseas as a “poor inconsiderable Wretch.”⁹¹ No witnesses could say anything for certain about Andrew Rance, except that he was always drinking.⁹² James Barrow called one witness who testified against him a “lying Reprobate Beast” for saying he cut the heads off all the ship’s chickens, but also admitted he often “fell to drinking very hard ...

⁸⁹ “Trial of Thomas Athelonce, 30 March 1722,” HCA 1/99/3 f. 40.

⁹⁰ “Trial of Robert Devins, 31 March 1722,” HCA 1/99/3 f. 44.

⁹¹ “Trial of Christopher Lang, 7 April 1722,” HCA 1/99/3 f. 103.

⁹² “Trial of Andrew Rance, 10 April 1722,” HCA 1/99/3 f. 120.

prophanely Singing at Suppertime Spanish and French Songs out of a Dutch Prayer Book.”⁹³

There was a threshold for how much drunkenness could limit the piratical activity of the accused, and that line was drawn at the types of actions each man was capable of even under the influence. Athelonce might have stolen a captain’s wig, but Joseph Mansfield, who witnesses described as “allways Drunk” and admitted himself “to have been too guilty of that Vice, which had a great Share in drawing him in to such Company the Love of Drink and a Lazy Life having been stronger Motives with him than Gold.” Mansfield’s guilt was certain because he brandished a cutlass while trying to rally his crewmembers to attack and board the *Swallow*, saying “who wou’d go on Board a Prize!”⁹⁴ James Greenham defended himself by admitting he “Perhaps might Drink to excess,” but because he was described by witnesses as “brisk enough” on board the pirate, he was likewise condemned.⁹⁵ Although James Cromby often “fell to drinking and swearing”, he was put together enough to man a gun during the engagement with the *Swallow*, while Robert Armstrong was sober enough despite “Drink and over Perswasion” to attempt and escape from the *Swallow* on its way to Cape Coast Castle.⁹⁶ Witnesses said John Taynson “was more busie at Drinking than anything else,” but not

⁹³ “Trial of James Barrow, 12 April 1722,” HCA 1/99/3 f. 139.

⁹⁴ “Trial of Joseph Mansfield, 9 April 1722,” HCA 1/99/3 f. 116. Mansfield’s crewmembers testified that by the time Mansfield came up on deck with the cutlass, they had already lost the battle with the *Swallow*, and that it “was sometime before they cou’d perswade him the Truth of their Condition”, a task made more difficult by the fact that Mansfield “in the Action ... was Drunk and a sleep.”

⁹⁵ “Trial of James Greenham, 4 April 1722,” HCA 1/99/3 f. 75.

⁹⁶ “Trial of James Cromby, 6 April 1722,” HCA 1/99/3 f. 96.

drunk enough to prohibit him from boarding numerous prizes and plundering them with the rest of the crew.⁹⁷

The willingness or not of the Court to accept a defense that was in essence “too drunk to pirate” is reflective of a larger trend in the eighteenth century, wherein the alcohol consumption of the lower sort became a highly visible and troubling phenomenon.⁹⁸ The type of drinking in which pirates participated was frequently remarked upon by commentators in a way that reflected their distaste for a bastardized genteel “sociability” reserved for and jealously guarded by the upper classes.⁹⁹ But more than this, concern over the lower class’ drinking habits was widespread, and were essentially thinly-veiled attempts to regulate the poor and laboring body. In a sermon preached in 1709 at the execution of two men convicted of murdering another while drunk, Samuel Danforth pointed to the several social problems caused by the lower sorts and drink. Drunkenness “unfits them for all business, and render[s] them dull and

⁹⁷ “Trial of John Taynson, 7 April 1722,” HCA 1/99/3 f. 107.

⁹⁸ See Dana Rabin, “Drunkenness and Responsibility for Crime in the Eighteenth Century,” *Journal of British Studies* 44 (2005): 457 – 477, Adam Smyth, ed., *A Pleasing Sinne: Drink and Conviviality in Seventeenth-Century England* (Cambridge: D.S. Brewer, 2004), Phil Withington, “Intoxicants and the Early Modern City,” in *Remaking English Society: Social Relations and Social Change in Early Modern England*, ed. Steve Hindle, Alexandra Shepard, and John Walter, 135 – 165 (Woodbridge: Boydell Press, 2013) and Adam Fox, “Food, Drink and Social Distinction in Early Modern England,” in *Remaking English Society*, 165 – 188, James Nicholls, “Vinum Britannicum: The ‘Drink Question’ in Early Modern England,” *The Social History of Alcohol and Drugs* 22 (2008): 190 – 208, Gina Bloom, “Manly Drunkenness: Binge Drinking as Disciplined Play,” in *Masculinity and the Metropolis of Vice, 1550 – 1650*, ed. Amanda Bailey and Roze Hentschell, 21 – 44 (Basingstoke: Palgrave Macmillan, 2010). See also Thomas Hogarth’s prints, *Beer Street* and *Gin Lane* for an illustration of how the elites viewed lower sorts’ drinking and its social and moral consequences, as opposed to the genteel drinking of their own class by the mid-eighteenth century.

⁹⁹ Phil Withington, “Company and Sociability in Early Modern England,” *Social History* 32 (2007): 291-307.; See also Keith Wrightson, *English Society 1580-1680* (London, 1982).

unactive.”¹⁰⁰ Since the lower sorts were already viewed as exercising less restraint, they were more prone than their betters to commit all manner of sins while under the influence, for “Drunkenness hath a Natural tendency to Poverty.”¹⁰¹ Ministers and moral reformers were particularly anxious about sailors' drinking habits while on shore. Sailors were notorious for getting their wages and going straight to the tavern.¹⁰² In so doing, “they keep not their Expences within the bounds of their Income, but run themselves into debt, to satisfy their innordinate Appetites,” and a drunken laborer was “inclined to slothfulness, and all manner of Imprudencies,” to dealing dishonestly and prone to coveting the possessions of others.¹⁰³ Drunkenness therefore was both a reason for committing piracy since it naturally led to greater sins, at the same time it was a valid excuse for piracy. The Court was willing to excuse piracy, to an extent, since “a Person in Drink is not capable, for want of the common and ordinary exercise of Reason, to prevent, avoid, shun or defend himself from Dangers.”¹⁰⁴ These five men were drunk enough that they did not understand the true danger of piracy – execution, because their

¹⁰⁰ Samuel Danforth, *The Woful Effects of Drunkenness A Sermon Preached at Bristol, Octob. 12 1709, When Two Indians, Josias and Joseph, Were Executed for Murther, Occasioned by the Drunkenness both of the Murthering and Murthered Parties* (Boston, 1710), 10.

¹⁰¹ *Ibid.*, 14.

¹⁰² Gilje, *Liberty on the Waterfront*.

¹⁰³ Danforth, *The Woful Effects of Drunkenness*, 15.

¹⁰⁴ *Ibid.*, 11. See also Rabin, “Drunkenness and the Responsibility for Crime in the Eighteenth Century.” Rabin argues that a combination of Locke’s *Essay Concerning Human Understanding* and community input allowed the Courts some leeway in sentencing for capital crimes, because a person unable to exercise reason was increasingly seen as unable to claim full responsibility for his/her actions, a similar shift as that described by Michael Macdonald in “The Secularization of Suicide in England, 1660 – 1800,” *Past and Present* 111 (1986): 50 – 100.

drunkenness “weaken[ed] and disorder[ed] the faculties of their Souls,” and were therefore “indisposed to conceive aright.” Under the influence, they became “meer Slaves” to their passions.¹⁰⁵

Two men sentenced to the Marshalsea seemed at first glance to be as active a pirate as any, but challenged that perception by some significant action which demonstrated to the Court they were not too far gone to exclude them from reentry into the fold. Thomas Withstandyenot remained on board the *Ranger* voluntarily, but witnesses stated Roberts did not trust him to run away with it in escape.¹⁰⁶ Even though Isaac Russell was voted Boatswain’s Mate of the pirate and served in that capacity, he initially “feigned a Sickness to get off from it”, and told a fellow crewmember “it was a wicked Life they all Lead, even when he was going on Board Prizes to Plunder.”¹⁰⁷ It helped Russell’s case that his former captain on the *Lloyd*, Captain Hyngston, produced an affidavit on Russell’s behalf. William Mead, who was thwarted in an attempt to sexually assault Elizabeth Trengrove, a female passenger on the *Onslow* and was “very rude, Swearing and cursing,” also escaped condemnation with an affidavit from a better man than he, while John Mitchell, the pirate who stopped the assault against Trengrove, was condemned.¹⁰⁸ Again, interventions by men of means could mediate perceptions of

¹⁰⁵ Danforth, *The Woful Effects of Drunkenness*, 18-19.

¹⁰⁶ “Trial of Thomas Withstandyenot, 14 April 1722,” HCA 1/99/3 f. 150.

¹⁰⁷ “Trial of Isaac Russell, 16 April 1722,” HCA 1/99/3 f. 161. Similar circumstances apply in the case of James Crane, HCA 1/99/3 f. 155.

¹⁰⁸ From “Trial of William Mead, 15 April 1722,” HCA 1/99/3 f. 79. Mitchell’s testimony is missing from the records, but his name appears among those sentenced for condemnation on April 18, 1722, f. 169.

guilt. However, there was a line the court did not feel comfortable crossing that was defined by the physicality of the accused. A sentence in the Marshalsea provided a middle ground between guilt and innocence.

“make Gentlemen of them All”: Position, Deportment, and Adornment

Of the one hundred men accused of piracy at Cape Coast Castle, 52 were “adjudged and Sentenced to be carried back to the Place from whence Ye came, from thence to the Place of Execution, without the Gates of this Castle and there within the Flood Marks to be hanged by the Neck till ye are Dead, Dead, Dead.”¹⁰⁹ Three considerations led the Court to condemnation: what space the physical body occupied in the final engagement with the *Swallow* defined (position), the level of activity displayed by the accused when crimes were committed (deportment), and how the accused presented himself while on board the pirate ship (adornment). The Court was particularly concerned with these questions for several reasons. First, establishing that the accused was on board the pirate, and in a specifically strategic place on the ship counted them amongst the guilty ones named in the initial indictment who

did audaciously, and in open Violation of the Laws ... Continue a hostile Defence, and Assault for about two hours more, in Defiance of the King’s Colours, and the Commission she fought under ... Voluntarily to Exert and actually Did in your several Stations, use Your best Endeavours, for Distressing the said King’s Ship, and murdering his Majesties Good Subjects, fighting therein under Lawfull Authority, for the Suppression of Robbers.¹¹⁰

¹⁰⁹ HCA 1/99/3 f. 169, 188.

¹¹⁰ HCA 1/99/3 f. 3.

The Court's concern for the position of the body stemmed from this indictment, as any claims to legitimacy for condemnation had necessarily to be linked to a concrete crime against the King's peace. Second, that a man actively participated in a wicked way of life meant that he could be held accountable for the crime of piracy, as his previously indiscernible criminal intentions were directed outwardly in criminal action. Finally, as much as the Court might want to legally condemn a man for acting outside of his station, they could not. Instead of condemning the spirit of piracy, the Court hanged a man for wilfully committing a crime, or, the act of piracy.

The physical space occupied by the body of the accused when the pirates resisted and attacked the *Swallow* lent considerable weight to the Court's sentencing decision, and negated any claims to force or escape attempts. Marcus Johnson, described by Henry Glasby as an active man, said in his defense that he was forced and "wou'd have made his Escape if he could have Swimm'd," but "own[ed] he fired one Gun against the *Swallow*," which sealed his fate.¹¹¹ John King "had his Pistols on ... the Day they made that Resistance", as did Samuel Fletcher and William Phillips.¹¹² Despite not having fired any guns against the *Swallow*, James Clements admitted to "getting up some Steering Sails" while Robert Crow was likewise quartered to a gun, but never fired it against the *Swallow*. He had instead helped with a sail, a minor distinction which did nothing to save him from condemnation.¹¹³ In 27 cases, the accused were found guilty as a result of

¹¹¹ "Trial of Marcus Johnson, 6 April 1722," HCA 1/99/3 f. 50 – 53.

¹¹² "Trial of John King, 29 March 1722," HCA 1/99/3 f. 23; "Trial of Samuel Fletcher, 29 March 1722," HCA 1/99/3 f. 26 – 27; "Trial of William Phillips, 29 March 1722," HCA 1/99/3 f. 24 – 25.

¹¹³ "Trial of James Clements, 6 April 1722," HCA 1/99/3 f. 89; "Trial of Robert Crow, 6 April 1722," HCA 1/99/3 f. 93.

numerous factors, but occupying some strategic position on the ship even if they were not armed such as in the quarter-deck, forecastle, or on deck, led to condemnation. John Johnson was acquitted after the Court determined he hid during the action with the *Swallow*, even though he had been ordered by the pirates to fill cartridges with powder.¹¹⁴ Several witnesses stated that Edward Thornden, William Glass, and Nicholas Brattle were nowhere to be found during the action, which helped lead the Court to acquit them, while Harry Glasby actually guarded the powder room to prevent any pirates from trying to blow up their own ship.¹¹⁵ Richard Scott was down below decks, and far enough away from any strategic post to have reasonably engaged in the fighting, while William Graves “run from his Quarters after the first broad side.”¹¹⁶ Simply seeming “active” or “brisk” was enough to establish a person’s inclination to piracy, but the Court did not often convict based solely on what witnesses purported to see. Rather, the Court needed some confirmed engagement in a piratical action, whether that be on board a prize engaging in

¹¹⁴ “Trial of John Johnson, 30 March 1722,” HCA 1/99/3 f. 28.

¹¹⁵ “Trial of Henry Glasby, 31 March 1722,” HCA 1/99/3 f. 50-53.

¹¹⁶ “Trial of William Graves, 4 April 1722,” HCA 1/99/3 f. 76. This argument is based in part on Erin Skye Mackie’s argument regarding “proximity” to undesirable people as an indicator of bad morality. Mackie applies this argument to Caribbean planters and their close confines with enslaved Africans, “While the black’s difference is sooner fixed in physical and natural signs of skin color, the white Creole’s difference is affiliated with these *racial* characteristics of blackness yet not adequately stabilized as itself a manifestation of genetic infiltration. So this type straddles the fence between cultural and racial ethnic notions. Importantly, this infusion of ‘black’ traits, far from being confined to the ethnical character of the white Creole, *spread through his body, determining its shape, habits, gestural language, and style of movement.*” The Court applied a similar logic to determining the guilt of the accused. Proximity was important because it established guilt, but just how far that proximity genuinely corrupted the accused, and so made him worthy of condemnation, was determined by other factors read on the body of the accused such as behavior, clothing, etc. Mackie, “Cultural Cross-Dressing,” 263.

plunder or, ideally, lighting a match to fire a gun against a King's ship flying the King's colors and brandishing a sword at the same time.

All of the condemned were described variously as "active" or "brisk" in piratical actions such as the taking of prizes. The pirate's boatswain, William Main, was seen "acting briskly on all Occasions" and "beat the Crew for not being brisk enough about it."¹¹⁷ Bartholomew Roberts was heard to say that Robert Crow "was as great a Rogue, as any of them."¹¹⁸ Witnesses attested that William Phillips "was very ready in obeying" when Roberts ordered him to take provisions out of a prize, and that despite his protestations to having been forced to sign the pirate's Articles, he "was very brisk and forward among them after the Ship was taken, and told them [the prisoners] he was as willing to stay as goe."¹¹⁹ When the *Onslow* was taken by the pirates, David Simpson was said to be "particularly cruel beyond the Rest of the Pyrates ... bragging he was as Good Man as Roberts" and there were none "so brisk ... as himself."¹²⁰ Although witnesses "kn[ew] no Particular Facts," they all swore that Philip Bill was "very Brisk and Active" especially in "the plundering Part."¹²¹ William Mackintosh carried the distinction of being "one of the activest, and Briskest among the Pyrates at any Duty," and his crewmate

¹¹⁷ "Trial of Wm Main, Boatswain, 31 March 1722," HCA 1/99/3 f. 41.

¹¹⁸ "Trial of Robert Crow, 6 April 1722," HCA 1/99/3 f. 93.

¹¹⁹ "Trial of William Phillips, 29 March 1722," HCA 1/99/3 f. 24 – 25. Phillips was accused not only by the Court but by the pirates for theft, regarding a wheel of cheese. In his defense, Phillips said "As to the Cheese it was his own, and he thought he might want it, which engaged him into the Quarrel with the Quarter Master."

¹²⁰ "Trial of David Simpson, 31 March 1722," HCA 1/99/3 f. 36.

¹²¹ "Trial of Philip Bill, 31 March 1722," HCA 1/99/3 f. 38.

James Clements “shewed himself a very brisk and lively One on All Pyratical Occasions, not the least uneasiness to this Way of Life but brisk, and often a Volunteer on Board of Prizes.”¹²² The Court asked Harry Glasby the particulars of boarding a prize in the trial of Marcus Johnson, and Glasby responded that Johnson was one of “those who were active and were minded to recommend themselves for brave Men [being] those that went, and were allways Volunteers.”¹²³ The Court even rebuked those who claimed they were not active for being active enough to have stayed on board. The pirates threatened to maroon Joseph More prompting him to give up his plans for desertion, and the Court dismissed his defense with “nothing less than the Fear of Death shou’d frighten a Man from his Duty.”¹²⁴

Purposeful action while occupying a pirate ship was enough to negate any claims of having been forced, but the law also required the Court to establish that activity was in the commission of a crime against goods. After all, it was the violence with which some pirates sought not only to turn the world upside down, but to burn down the world from whence they came, which horrified the supposed victims of their crimes. The pirates’ appropriation or aggressive assault against those items symbolizing the sorry state of their previous lives was treated by the Court as incontrovertible proof of the necessity of their condemnation. That sailors complained so often of the lack of provisions or the withholding of wages seems at first glance an elementary quibble with the distribution of

¹²² “Trial of James Clements, 6 April 1722,” HCA 1/99/3 f. 89.

¹²³ “Trial of Marcus Johnson, 6 April 1722,” HCA 1/99/3 f. 94.

¹²⁴ “Trial of Joseph More, 7 April 1722,” HCA 1/99/3 f. 109.

resources. But any dispute over a just compensation (a “living wage” so to speak) is founded on the physical needs of the body. Ready access to the means of fulfillment for those needs is inextricably tied to an idea of liberty and agency in turn informed by the benefits and injuries of class.

The foundational tenets of capitalism necessitated that material goods be privileged over the lives of men. The British state through the High Court of Admiralty repeatedly demonstrated it was permanently prostrate before the altar of Mammon. Piracy in its Golden Age was one of the few, if not the only, opportunity for sailors to exercise true agency over their labor. When Bartholomew Roberts proclaimed the pirate’s life one of “Plenty and Satiety, Pleasure and ease, Liberty and Power,” this was not hyperbolic. Sailors who turned pirate directed their energies first and foremost to indulging in all the bodily pleasures denied them not only in their former service to Britain, but unattainable by virtue of their class as a whole. When the pirate Howel Davis took the *Princess*, he asked the crew “which of them would enter with him and told them that he would make Gentlemen of them all.”¹²⁵ John Haswell, carpenter of the *Princess*, took full advantage of the liberty afforded in the life of a pirate. When Haswell saw the Black Flag, he “put on his best Cloaths and brought a Bunch of Ribbons in his hat.”¹²⁶

The pirate’s costume of clothes stolen from their betters and their adversaries was a trans-Atlantic phenomenon which deeply troubled authorities from the New England frontier to Jamaica and London. Historians have deemed this specific process “cultural

¹²⁵ “Information of John Stephenson, 9 November 1721,” HCA 1/55 f. 5 – 6.

¹²⁶ “Information of William Gittus, 11 November 1721,” HCA 1/55 f. 6 – 7.

cross-dressing.”¹²⁷ Members of Roberts’ crew took particular advantage of the opportunity to dress the part of their betters and in so doing, turn the world upside down by seizing what had been denied them. Thomas How spent the majority of his time on board the pirate “as finely dressed as a fool” and plundered ships “for Fancy” and James Cromby even wore the “fine Cloths” to his trial that he had almost certainly taken from another ship.¹²⁸ That so many pirates felt the need to get new clothes by hook or crook when they went upon the Account was a testament to the want they experienced while following a normal course of life as a common seaman. The British Atlantic trade created incredible wealth at the same time it exacerbated deep poverty, and the man most likely to turn pirate experienced life at the bottom. It was no wonder, then, that when the pirates took the British merchant ship *King Solomon*, John King “came cheerfully up out of the Gun Room, with a New Hat on belonging to the Chief Mate and was presently in the Bow of the Boat to go off with the Pyrates.”¹²⁹ Philip Bill carried “a Laced Hat away from one Mr Winthrop” when the pirates took the *Onslow*, and Richard Hardy accumulated an impressive collection of “Captains Buckles.”¹³⁰ Harry Glasby’s

¹²⁷ Historians of early modern theatre are especially intrigued by the idea of “cross-dressing” as the embodied anxieties of English society in the long eighteenth century. See Robert I Lubin, “Anxious Audiences and the Early Modern English Transvestite Theatre,” *Theatre Symposium* 20 (2012): 66 – 73 for sexual mores, Robin Runia, “‘The breeches are my own, henceforth I’le rant’: *The Widdow Ranter* and Cross-Dressed Politics,” *Restoration and 18th Century Theatre Research* 26 (2011): 5- 21 for cross-dressing as expression of religious nonconformity. See also Christina Bosco Langert, “Hedgerows and Petticoats: Sartorial Subversion and Anti-enclosure Protest in Seventeenth-century England,” *Early Theatre* 12 (2009): 119 – 135 for clothing as economic and political protest.

¹²⁸ “Trial of Thomas How, 9 April 1722,” HCA 1/99/3 f. 117; “Trial of James Cromby, 6 April 1722,” HCA 1/99/3 f. 96.

¹²⁹ “Trial of John King, 29 March 1722,” HCA 1/99/3 f. 23.

¹³⁰ “Trial of Philip Bill, 31 March 1722,” HCA 1/99/3 f. 38; “Trial of Richard Hardy, 31 March 1722,” HCA 1/99/3 f. 39. Andrea McKenzie has an excellent argument in regards to hat honour and crime in the

description of the pirate's practice of "in his Turn" highlighted the desirability of a quality set of clothes. When "asked the Nature of this going in Turn, said they [pirates] were called upon List, and every Man that went was allowed a shirt as they call it, that is a Suit from top to Toe."¹³¹

Traditionally, a person's clothes marked their place in society, but in the expanding geography and climates of the British Empire, these clothes were as fluid as the people who wore them. Dressing outside of that which was expected, the wearer "Embod[ied] a dubious, unstable ethical and ethnic character that concretize[d] anxieties about colonial society."¹³² Those anxieties stemmed directly from the potential for economic mobility promised by an expanding market place. That mobility endangered the ease of identifying the common man from his betters, those who owed respect from those to be respected. These anxieties crossed economic boundaries and applied not just to the poor, but even to Caribbean planters who, to observers, suffered from a failure of sensibility and "too seduced by wealth, vanity, and personal advancement ... pleasure and prestige are pursued to the point of death."¹³³ The pirate, too, was accused of the

eighteenth century. To steal a hat, or refuse to remove a hat in the presence of one's betters was a social taboo and indicator of minor rebellion since it visibly rejects the status of that person. Wearing a hat is an act of agency, because a man who can wear a hat becomes "a master both of oneself and of one's household." McKenzie, "God's Hat and the Highwayman's Shoes: A Gestural and Sartorial History of Seventeenth- and Eighteenth-Century English Trial and Execution," *Canadian Journal of History* 47 (2012): 231 – 257, 237.

¹³¹ "Trial of John Parker, 6 April 1722," HCA 1/99/3 f. 90.

¹³² Erin Skye Mackie, "Cultural Cross-Dressing: The Colorful Case of the Caribbean Creole," in *The Clothes That Wear Us: Essays on Dressing and Transgressing in Eighteenth-Century Culture*, ed. Jessica Munns and Penny Richards, 250 – 270 (Newark: University of Delaware Press, 1999).

¹³³ *Ibid.*, 258.

same; while the Caribbean planter caused apprehension but was allowed his capitalist credentials, the pirate was deemed a villain of epic proportions. To the Court, their misappropriation of elite culture *vis-a-vis* dress was a clear marker of their criminality. Showing up to defend oneself of piracy while adorned in finery above your station “secure[d] criminal identity in highly visible surface signs ...[because] The felon, his history branded on his countenance, cannot counterfeit legitimacy.”¹³⁴ This counterfeiting of elite culture (and often, an exaggeration of it), intimidated the Court in the same way that Native Americans in English clothing frightened North American colonists. Ann M Little argues that “Facing an enemy that impersonated one’s compatriots or defiantly wore the clothes of dead comrades was disorienting and enraging, one more clever tactic of an adversary that in a myriad ways defied and confounded expectations.”¹³⁵ This assessment was as true for pirates as Pequots on the New England frontier. In the British mind, cultural cross-dressing demonstrated “both the pleasure and danger of clothing: it could blur or alter identities. If clothing could turn bound people free, and confer like privileges on the wearer,” then who could possibly distinguish capitalist from criminal?¹³⁶

That stealing a hat carried the same weight as plundering a ship of its gold in meriting condemnation is a byproduct of the twisted logic of the early eighteenth-century market. The law inched slowly along behind the growing demands of capitalism and its proponents. Piracy was a threat to wealth, and *any* level of participation within that

¹³⁴ Ibid., 256-257.

¹³⁵ Ann M Little, “‘Shoot that Rogue, for He Hath an Englishman’s Coat On!’: Cultural Cross-Dressing on the New England Frontier, 1620 – 1760,” *The New England Quarterly* 74 (2001): 238 – 273, 239.

¹³⁶ Ibid., 240. That line remains blurry.

broader context demanded a swift and overwhelming response. Clothes were at once an outward manifestation of bodily liberty to the sailor, and a quick and easy identifier of the pirate to the Court. If piracy as a concept was unfamiliar to the powers that be, a common seaman adorned in the costumes of the elite was much more clearly a “pirate”. How the pirate presented himself was as crucial to his own self-perception as a man with the liberty to exercise such agency over his body, as it was to the Court in identifying their innocence or guilt. One pirate crew went so far to flaunt this liberty as to force an artist on board to draw them in their clothes.¹³⁷ One would-be pirate was heard to say “that if he could get three or four good hands and an Artist he would not be afraid to turn Pyrate.”¹³⁸ Clothing was “socially comprehensible” to both Court and accused, a familiar medium where agency, defiance, or both might be exercised. Stealing the hats of captains and wearing those hats on board a prize or pirate ship was a direct rejection of the culture that stipulated only a master could wear that marker of status.¹³⁹

Simply dressing the part of pirate was offensive to the Court precisely because it turned inside out the bodily markers of wealth and privilege reserved for those who participated appropriately in the market. More insulting to the Court was how the accoutrements of status were an appropriation of the legal alternative to piracy, operating in a directly parallel universe where a criminal could become a prince, or a poor man

¹³⁷ “At a Court held at Williamsburg the fifteenth Day of August in the Fourteenth year of the Reign of Our Sovrain Lord George of Great Britain France and Ireland King Defender of the Faith,” HCA 1/99/3 unpaginated.

¹³⁸ “At a Court of Admiralty held at Williamsburgh the fourteenth day of August 1729,” HCA 1/99/3 unpaginated

¹³⁹ McKenzie, “‘God’s Hat’ and the Highwayman’s Shoes,” 237.

might accumulate a fortune. The boatswain of the Roberts' fleet, William Main, "Command[ed] like a Man of Warr's Officer," and Abraham Harper "allways had a Rattan (like an Officer) in his hand."¹⁴⁰ John Stevenson "asked for Cloths and Arms [from] Roberts as soon as he came on Board," two items which would have been denied him as a common sailor.¹⁴¹ James Skyrme, captain of the *Ranger*, always "had a Sword in his Hand" and stated "as to the Title of Captain it was nothing for every Man was a like" on board the pirate ship.¹⁴² The pirate crew of the *Dragon* established themselves as virtual kings of a strip of Madagascar's coastline, demanding tribute from those who passed through their self-made borders. Merchant ships remained unmolested so long as a certain tribute was paid. The *Prince* rested peacefully for several days after delivering "two Keggs of Brandy and a hamper of Liquor" one day, and "about a hundred Keggs of Brandy of three Gallons each or thereabouts ... several Chests of Arms and 70 or 80 Barrells and half Barrells of Powder, some Wine Brandy and Provisions" the next. There was a hint of jealousy in the testimonies given to the Admiralty by the crew of the *Prince*, as they related that it was "reported and commonly discoursed ... that each of the Company of the said pirate Vessel rece[ieve]d eight or nine thousand pounds as their Shares."¹⁴³ Walter Kennedy, former crewmember of Roberts' turned pirate captain in his own right, served in the British navy during several wars "but being told what Lords the

¹⁴⁰ "Trial of Wm Main, Boatswain, 31 March 1722," HCA 1/99/3 f. 41; "Trial of Abraham Harper, 7 April 1722," HCA 1/99/3 f. 110 – 111.

¹⁴¹ "Trial of John Stevenson, 9 April 1722," HCA 1/99/3 f. 118.

¹⁴² "Trial of James Skyrme, Captain of the *Ranger*, 4 April 1722," HCA 1/99/3 f. 72.

¹⁴³ "Information of Robert Dunkirk, 13 November 1721," HCA 1/55 f. 7 – 9.

Pirates in America were, and that they had gotten several whole Islands under their own Command, he coveted to be one of those petty Princes.” It was precisely this perception of pirates that so frightened the British Empire as it led directly to ordinary seamen “harbour[ing] these aspiring Thoughts” of a liberty in mobility impossible in the service of Britain.¹⁴⁴ It was when these aspirations turned into destructive or criminal action that forced the British government to truly confront the self-inflicted problems of a trade that relied on and exalted the labors of seamen, while at the same time denying them the economic mobility and pleasures associated with the fruits of that labor.

Cases of wanton destruction of goods and ships inevitably led to a guilty verdict, but the Court seemed at a loss to explain this behavior. Indeed, some of these instances would be comical if they were not all too understandable. When the *Gertrude* galley was taken by the pirates, George Smith and others went around the ship “with his Cutlass spoiling and hacking every thing else he thought was not worth removing most of all,” including “some very good Saussages, he and others ludicrously stringing them about their Necks for a time, and ... throwing them away.”¹⁴⁵ The pirates threw overboard many of the goods on the *Onslow*, and the *Hannibal*, belonging to the African Company, lost its entire cargo of redwood in the same manner.¹⁴⁶ The crew of the *Elizabeth* escaped the pirates with their lives, but all of their bread was thrown overboard.¹⁴⁷ David Holliday

¹⁴⁴ “The Account of the Life, Behaviour, &c. of Walter Kennedy, that was Executed last Friday 7 at Night at Execution-Dock,” *Weekly Journal or British Gazetteer*, Saturday, July 29, 1721.

¹⁴⁵ “Trial of George Smith, 10 April 1722,” HCA 1/99/3 f. 126 – 127.

¹⁴⁶ Description of the *Onslow* from “Trial of William Magness, 31 March 1722,” HCA 1/99/3 f. 35, and that of the *Hannibal* from “Trial of Richard Hardy, 31 March 1722,” HCA 1/99/3 f. 39.

¹⁴⁷ From “Trial of Agge Jacobson, 6 April 1722,” HCA 1/99/3 f. 85 – 86.

watched all of his clothes go into the sea after the pirates “commenced presently an ill will towards him.”¹⁴⁸ They burned several ships after plundering them of their goods, including the *Whydah* sloop and the *Porcupine*, which was “burnt ... with many of her Slaves chained and linked together ... Perishing by Fire or Water.”¹⁴⁹ Pirates seemed to revel in this destruction, even cracking jokes, “saying what Occasion is there for this needless work of heaving up the Anchor Your Ship will be burn’d presently,” and lamented when they were limited in achieving this end.¹⁵⁰ Genit de Haen of the *Gertrude* heard David Simpson say “that if all were of my Mind, we wou’d burn, or sink her.”¹⁵¹

The opportunity to enact violence against the goods and people responsible for the hardships and constraints of their previous lives was a much-welcomed liberty for some pirates. The pirate’s life was one of license, to exercise complete control over a body that had been abused and exploited. The pirate was free to direct his body towards achieving revenge for his previous imprisonment, and to do so using the tools and privileges, which included violence, of those who would otherwise confine them. To occupy the space of a pirate ship, to do so actively and voluntarily, and then to explicitly direct your energies to

¹⁴⁸ From “Trial of John Stevenson, 9 April 1722,” HCA 1/99/3 f. 118.

¹⁴⁹ From “Trial of Robert Hanes, 6 April 1722,” HCA 1/99/3 f. 91 – 92. This is not the only instance where enslaved Africans were killed, traded, or misused by pirates in the records, a fact that tends to undermine further the idea of an egalitarian and transnational band of pirates advanced by Rediker. Henry Hunt testified that the pirate captain Edward England allowed him to keep his lading of 133 slaves after he agreed to pilot the pirate ships down the Gambia River (HCA 1/54 f. 116 – 117), and the British merchant ship *Prince* traded slaves with pirates in Madagascar (“Information of Robert Dunkirk, 13 November 1721,” HCA 1/55 f. 7 – 9), amongst other examples. This is not to say that pirates were as notorious slave traders as, say, the British empire, and that instances of racial integration on pirate ships did not exist.

¹⁵⁰ From “Trial of John Walden, 4 April 1722,” HCA 1/99/3 f. 73.

¹⁵¹ From “Trial of David Simpson, 31 March 1722,” HCA 1/99/3 f. 36.

destroying the civilized world, all while dressed in the costumes of civility and carrying the accessories of your betters, was a terrifying prospect which could only be met with the prospect of terror. Fifty-two men were condemned by the Court for a combination of some, if not all, the above described legal and social violations. Over the course of seventeen days in April, 1722, they were taken from the Castle and hanged in groups ranging from six to fourteen “between the Flood Marks”, their bodies used as a warning to all who proceeded along the coast. Of those fifty-two, eighteen were ordered that they “shall be taken down and your bodies hung in chains.”¹⁵²

“And go all merrily to Hell together”: Body and Behavior of the Guilty

The additional sentence of being hanged in chains was a distinction reserved for those pirates who the Court deemed the ultimate embodiment of piracy. These pirates possessed all of the qualities that earned condemnation, and were guilty of the far greater sin of not demonstrating the proper remorse for their crimes. Rather, these eighteen enthusiastically embraced the life of a pirate, moreso than the others, and did so with full knowledge of the logical end of their lives. In the words of Peter Scudmore, former surgeon on the *Cornwall* turned enthusiastic pirate, having “Signed the Pyrates Articles ... with a great deal of Alacrity ... the first Surgeon that had done so, Swearing immediately upon it, that he was now as great a Rogue as any of them,” the pirates knew what it meant “to go to Cabo Corso, and be hanged and Sundried.”¹⁵³ You can almost see Thomas Sutton shrug when he “owned the Facts ... that he had been 3 Years with them,”

¹⁵² HCA 1/99/3 f. 56.

¹⁵³ “Trial of Peter Scudmore, Surgeon. 15 April 1722,” HCA 1/99/3 f. 81 – 84.

and corrected the evidence against him, saying “he had taken only half the Stores out,” one part confession and one part last word.¹⁵⁴ In the case against Richard Hardy, “More might have been proved, but the Prisoner owning” that he was an “Old Offender”, the Court quickly found him guilty.¹⁵⁵ Israel Hynde, Christopher Moody, and David Simpson similarly owned the evidence against them, cutting short the Court’s procession of witnesses.¹⁵⁶ John Walden stood before the Court minus the leg he had lost in the engagement with the *Swallow*, and “appear’d undaunted tho’ his Wounds were great,” admitting freely “at my first being taken ... I was as much forced as any Man, and for a Month after as sick of it as any Man, but Custom alter’d me” and owned the evidence presented against him.¹⁵⁷ Described as one of “the forwardest among them,” Valentine Ashplant said “nothing in his Defence.”¹⁵⁸ The surgeon of the *Elizabeth* swore that John Philps stole pistols, liquor, and broke open the captain’s chest, while John Wingfield testified Philps “abused him calling him a super Cargo Son of a B---h that he starved the Men, and that it was such Dogs as he put Men on Pyrating.” Philps admitted that while he wanted to fight the *Swallow*, “[he] did not fire his Gun as was deposed ... because they cou’d not bring it to bear.”¹⁵⁹ Denied the opportunity to lord over these unapologetic and

¹⁵⁴ “Trial of Thomas Sutton, 31 March 1722,” HCA 1/99/3 f. 34.

¹⁵⁵ “Trial of Richard Hardy, 31 March 1722,” HCA 1/99/3 f. 39.

¹⁵⁶ “Trial of Israel Hynde, 4 April 1722,” HCA 1/99/3 f. 74; “Trial of Christopher Moody, 31 March 1722,” HCA 1/99/3 f. 37; “Trial of David Simpson, 31 March 1722,” HCA 1/99/3 f. 36.

¹⁵⁷ “Trial of John Walden, 4 April 1723,” HCA 1/99/3 f. 73.

¹⁵⁸ “Trial of Valentine Ashplant, 31 March 1722,” HCA 1/99/3 f. 43. Daniel Defoe says that Ashplant was one of those up for captain of Roberts’ fleet when former captain Howel Davis was removed from command.

¹⁵⁹ “Trial of John Philps, 7 April 1722,” HCA 1/99/3 f. 102.

irredeemable pirates the full weight of their wickedness, the State exercised their ultimate power over life and death and responded with a more spectacular execution. What else was to be done when men like James Phillips, who recognized the battle with the *Swallow* was lost and “no hopes left of quitting themselves from the Man of War ... was down with a lighted Match in Order to set the Magazine on fire swearing very profanely lets all go to Hell together!”, or John Coleman who said “carelessly he has been on Board 2 or 3 Prizes, and if he must be hanged for it God’s will be done”?¹⁶⁰

This apathy was reported from pirates tried all over the British Atlantic world. Thomas Roberts’ crew was reported to say “they would not go to Hope-Point in the River of Thames, to be hung up in Gibbets a Sun-drying,” and “if it should chance that they should be attacked by any Superior Power or Force which they could not master, they would immediately put Fire with one of their Pistols to their Powder, and go all merrily to Hell together.”¹⁶¹ At his execution in Boston in 1726, the pirate William Fly tied his own noose and proclaimed to the gathered crowd that not only did he refuse to repent of his supposed crimes, but fully rejected the State’s condemnation of him. His indifference towards his own material demise matched his anger at the capitalist ideology that disenfranchised him in the first place, exhorting the captains of merchant vessels to “pay Sailors their Wages when due, and to treat them better; saying that their Barbarity to them made so many turn Pyrates.”¹⁶² In 1718, eleven pirates sailing under Charles Vane met

¹⁶⁰ “Trial of James Philips, 14 April 1722,” HCA 1/99/3 f. 152; “Trial of John Coleman, 16 April 1722,” HCA 1/99/3 f. 160.

¹⁶¹ “Boston, August 22.” *Weekly Journal or Saturday’s Post*, Saturday October 15, 1720; Issue 98.

¹⁶² Cotton Mather, *A Vial Poured Out upon the Sea* (1726) as quoted in Marcus Rediker, *Villains of All Nations: Atlantic Pirates in the Golden Age* (Boston: Beacon Press, 2004), 2.

their ends with a similar sentiment, and used their last words not as an acknowledgment of the State's justice, but told the crowd "they never thought to have seen the Time, when ten such Men as they should be ty'd up and hanged like Dogs." They accused both their peers and captors of "Pusillanimity and Cowardice."¹⁶³ When asked to repent of his wickedness, one pirate answered "I do heartily repent...[that] I had not done more Mischief, and that we did not cut the Throats of them that took us, and I am extreemly sorry that you an't hanged as well as we."¹⁶⁴ His fellow pirate, Dennis Macarty, took the opportunity to make a mockery of the entire proceedings, and said that his friends "often said he should die in his Shoes, but that he would make them Lyars, and so kicked them off." To die "in your shoes" was to meet an unexpected end. Macarty's insistence that he die without them was a vivid demonstration that Macarty met his end on his own terms, expected and even embraced. A public display such as this while on the gallows, Macarty rejected with his body the State's imposition of a violent and untimely death.¹⁶⁵

"Hanged and sundried" was the only way the Court could regain control over the bodies of the men who seemed to care so little about their fate. Execution is the ultimate expression of the State's possession of its subjects' bodies. None other than God could wield similar power over life and death. The prospect of losing one's life should have been enough to discourage would-be pirates from going on the Account. This fear was

¹⁶³ Daniel Defoe, *A General History of the Pyrates*, 43.

¹⁶⁴ Ibid. McKenzie describes several similar actions at Tyburn in "'God's Hat' and the Highwayman's Shoes". See also Jessica Munns, "'With nose-gays and gloves .../ So trim and so gay': Clothing and the Public Execution in the Eighteenth Century" in *The Clothes That Wear Us*, 271 – 300.

¹⁶⁵ Ibid.

certainly enough to prompt twenty of those condemned at Cape Coast Castle for piracy to petition the Court

That your Petitioners having been unhappily and unwarily drawn into that wretched and Detestable Crime of Piracy for which they stand now justly Condemned, They most humbly Pray the Clemency of the Court in Mitigation of their Sentence, That they may be permitted to serve the Royal African Company in this Country for seven Years in such Manner as the Court shall think Proper That by their just Punishment being truly Sensible of the Error of their former Ways they will for the future become faithfull Subjects good Servants, and usefull in their Stations if it shall please the Almighty to prolong their Lives.¹⁶⁶

This inevitably pleased the Court who granted “Leave by this Court of Admiralty to interchange Indentures with the Capt. General of the Gold Coast for the Royal African Company” and even drew up the contracts. It is illustrative of the desperation engendered by the economic system of the British Atlantic world that so many former pirates would willingly relinquish their liberty for seven years in a Royal African Company gold mine. Touted so often by proponents of an expanding Atlantic trade, the promise of a better life drove men to piracy, but that dim hope also led many to take any means to save their own skin. For the common sailor, the price of true liberty and ownership over ones’ agency was death. The alternative was a life of abuse, struggle, and want, where the sailor’s body belonged to a ship or a master or a British State that demonstrated over and over again

¹⁶⁶ HCA 1/99/3 f. 173. Thomas How, Samuel Fletcher, John Lane, David Littlejohn, John King, Henry Dennis, Hugh Harris, William Taylor, Thomas Owen, John Mitchell, Jossuah Lee, William Shorin, Robert Hartley, John Griffin, James Cromley, James Greenham, John Horn, Edward John Jessup, David Rice were all sent to the Royal African Company gold mines for 7 years and most likely died within one or two years. Those hired (or forced) to work in the same mines reported unthinkably horrible conditions, and many returned home before their contracts expired, if they survived at all. *Mist’s Weekly Journal* reported in 26 June 1725 that of nineteen men hired to work in those mines in late 1723, only five returned and “The rest dy’d in that Country.”

that the sailor's body was only as good as the labor it expended, and no more valuable than the materials it helped to transport.

Conclusion: "Genius and Vigour"

Despite the condemnation of piracy, far more sailors escaped execution for piracy than might be expected given the vitriol spewed for piracy and the violence with which the British Empire set out to eradicate this particular threat. For example, only thirty-two of the fifty-two condemned at Cape Coast Castle in 1722 were actually executed, the other twenty having been saved from the gallows by their willingness to sign themselves over to the Royal African Company for seven years of unimaginably difficult and dangerous labor in African gold mines. Many sailors actively fought the pirates, too. That so many used the excuse of force in order to live another day in the disheartening reality of the British sailor, and served as good British subjects against the very people who embodied the type of life barred to the ordinary British sailor, was a result of the antithetical goals of capitalism and piracy. When the Virginia Assembly ordered "that for the encouragement of such Sea-Men and able bodyed Land Men as shall voluntarily enter on board his Majestys Ship the Roger" with a commission to fight the pirates, and offered "Ten shillings Current money over and above their pay ... for so long time as they shall continue on board," many took the job. Better to fight the pirates with ten shillings more, than to find yourself on the wrong side of a Justice of the Peace, tasked with "impresing such stragling Sailors and other persons not having any stable Imployment or settled residence ... for manning his Majestys said Ship."¹⁶⁷

¹⁶⁷ *Virginia Minutes of Council from 28th of May 1719 to the 29th of April following, 7 October 1720.* TNA CO 5/1417 unpaginated.

If being a pirate was lucrative, catching a pirate was both lucrative *and* legal. The British government paid handsomely for those who apprehended pirates or provided information as to their whereabouts. The same proclamations promising pardons to those pirates who willingly surrendered, listed the prices paid to those who captured or discovered pirates: “for every Commander of any Pirate Ship or Vessel the Sum of One hundred Pounds; for every Lieutenant, Master, Boatswain, Carpenter, and Gunner, the Sum of Forty Pounds; for every inferior Officer the Sum of thirty Pounds; and for every Private Man the Sum of twenty Pounds.” Even more appealing, the government promised £200 to any member of a pirate ship who “seize[d] and deliver[ed], or cause[d] to be seized or delivered” a pirate captain, and provided evidence leading to that captain’s conviction.¹⁶⁸ Witnesses against pirates in their trials were paid out of the Treasury, and governments incurred “extraordinary expences” as a result.¹⁶⁹

Intentionally or not, the British State ultimately won the war against the pirates because they linked financial gain for the common man with the executions of pirates. More than the rotting corpses of those executed for piracy hanging in chains in port cities around the British Atlantic, it was the allure and promise offered by commercial success that ended the Golden Age of Piracy as suddenly as it started. Pirates offered “a short life and a merry one”, a lifestyle admired by many but fully embraced by only a comparative

¹⁶⁸ *London Gazette*, September 14- September 17, 1717; Issue 5573.

¹⁶⁹ *Virginia Minutes of Council from 28th of May 1719 to the 29th of April following*, 22 February 1719/20. TNA CO 5/1417 unpaginated; see also HCA 1/99/3 f. 50 – 53 testimony of Harry Glasby who escaped conviction with the rest of Roberts’ crew despite having been a pretty active member, because he turned evidence against his fellow crewmembers (and testified against almost every single one of those condemned).

few. Many more stripped themselves of the outward markers of their short and merry rebellion, gave up their ill-gotten finery and laid down the arms taken from British captains, apologized in the ways they knew would be accepted by the Court, and adorned themselves in the trappings of their former captivity in service to the British Empire. It was, and continues to be, the great triumph of capitalism that so many acted against their own interests in the thin hope that one day they, too, would be granted entrance into the full pleasures of wealth and ease. Pirates held a mirror to the State and the Atlantic system that financed it, but “We behold our own Faults in Mirrors, which make them seem less, and other Mens in Multiplying Glasses, making them appear greater.”¹⁷⁰ Pirates mimicked their betters, but the common man in the early eighteenth century believed that somewhere in the Atlantic they might *become* their betters. The price of admission was labor in the service of capitalism, as the potential for full bodily liberty once guaranteed by the simple fact of being a “free-born Englishman” was now possible only through the accumulation of wealth. The defeat of the pirates in 1726 marked the end of one of the few significant challenges to the continued commodification of bodies and their labor. Many a sailor’s willingness to acquiesce to the demand that his body’s labor be the possession of the State granted the final permission that his disenfranchisement continue as planned, and admitted to the powers that be that his body was no longer his own.

¹⁷⁰ *Observer*, August 30, 1704 – September 3, 1704; Issue 47.

CHAPTER FOUR

“ON THE IMPOSITIONS OF QUACKS”:

SURGEONS, THE CONDEMNED, AND THE MURDER ACT OF 1752



Figure 1. William Hogarth, *The Consultation of Physicians (Arms of the Undertakers)*, 1736

Behold how in the colledge hall,
 The surgeons and the doctors all,
 Are met in consultation wise,
 A carcase to anatomize:
 The master there displays his art,
 Sagely discants on every part,
 And that with ears & eyes and nose,
 We hear, and see, and smell, he shows.

- Egbert van Heemskerck II, *Behold How in the Colledge Hall
 [or Satire on Quacks and Quackery]*, 1730.

Introduction: Old Bailey, June 1752

On June 25, 1752 Thomas Wilford stood before the judges of the Old Bailey, accused of the murder of his wife Sarah. Wilford said nothing in his own defense, and so “he received sentence immediately to be executed on the Thursday following . . . and his body to be dissected and anatomized.”¹ The court recorder found it important to attach a note to this record: “This is the first case after the new act of parliament.”² The “new act of parliament” to which the note referred was the 1752 “Act for better preventing the horrid Crime of Murder,” otherwise known as the Murder Act.

The Murder Act’s preamble stated “it is thereby become necessary, that some further Terror and peculiar Mark of Infamy be added to the Punishment of Death.”³ The Act expanded the power of the Central Court at the Old Bailey, restricted the bodies of convicted prisoners preceding their execution by limiting food and visitors, and vastly amplified the ability of the State to control the criminal’s body. Thomas Wilford, the

¹ *Proceedings of the Old Bailey*, 25 June 1752.

² Ibid.

³ *An Act for better Preventing the Horrid Crime of Murder*, 1752, II Geo., c. XXVII.

malefactor who remained silent in his own defense, was said to have been “taken from the Bar weeping, and in great Agonies, lamenting his sad Fate.” The Ordinary of Newgate applauded the Murder Act, seeing it as evidence that the State had “thereby shewn, they are willing to do all in their Power towards putting a Stop to this Growing Evil, by extending the Laws to the utmost Stretch of Rigour that Humanity can allow.”⁴

This chapter is less concerned with furthering a discussion of State power over subjects’ bodies through extending the penal code, than with how a particular group within the body politic, surgeons, negotiated their own tenuous power and legitimacy through the Murder Act, thereby resolving their own perceived crisis in the dead criminal body. This chapter will thus address the sections of the Act that extended the “donation” of murderer’s bodies to anatomy schools from four a year to the stipulation that “in no case whatever should the body of any murderer be buried until it had been dissected.”⁵ Attempts by the surgeons to legitimize themselves via the legal system and the condemned body in some ways mirrored that of the traditional ruling elite after 1688. However, the surgeons were not in the business of pursuing a redefinition of political authority, so much as they were interested in establishing the validity of their specific profession and its use of bodies generally. The surgeon operated in what was still considered a degrading practice – namely, manual manipulation of the foul body through dissection. The condemned body presented the perfect solution to the surgeons’ problem

⁴ Ordinary of Newgate’s *Account*, 2 July 1752.

⁵ *An Act for better Preventing the Horrid Crime of Murder*, 1752, II Geo., c. XXVII.

of legitimacy. In the act of crime, the process of condemnation, and the performance of execution, the body of the condemned was made foul, and the expiation of the condemned was already a purgative cure for the body politic. Furthermore, the condemned body had been subtly separated from the criminal soul. When the laborer was reduced to a commodity, the condemned denied access to the truth of his soul, and the criminal body assessed for its guilt through action, the body of the condemned could more appropriately be destroyed without explicitly denying agency to the person. The condemned body could be claimed because it was already corrupt. But the surgeon could make the condemned a saint.

The passage of the Murder Act represented the intersection of several disparate yet simultaneous developments in the late seventeenth and early eighteenth centuries. The first was the professionalization of medical practice and the competition for students and prestige amongst English and Continental teaching hospitals. This trend in turn created a crisis of identity for different practitioners, who vied for legitimacy amongst themselves. The Barber-Surgeons were the traditional arbiters of medical practice and “knowledge,” but had been supplanted by the rise of the university-trained Physician whose identity and legitimacy rested on his theoretical knowledge of the Galenic body, rather than on his direct experience with the body itself. The Physician understood the body precisely because he worked *outside* of it, observing its external signs and expressions to determine its internal ailments.⁶ The Galenic model was problematic

⁶ See Roy Porter, *Bodies Politic: Doctors, Disease and Death in Britain* (Ithaca: Cornell University Press, 2001) as well as Christopher Lawrence, “Medical Minds, Surgical Bodies: Corporeality and the Doctors,”

precisely because it was almost entirely theoretical, but despite its curative or diagnostic failings, the Physician retained legitimacy because he was “learned” and demonstrated all of the “outward shews” of gentility.⁷ Conversely, the Surgeon occupied a “low” rank within medical science because of his experience with the *inside* of the body and the need of the profession itself to deal manually with a body that was still largely seen as a corrupted and polluting entity.

The debate over who was or was not a legitimate medical practitioner rested as well on a changing conception of medical “knowledge” and “expertise”. From the sixteenth century onwards, English medicine wrestled with the mind/body problem that contemplated whether or not rational man could conquer the corporeal container of his body. The implications of this question restructured the relationship between human and the divine, as well as reconceptualized the body politic. If man was no longer dictated by desires caused by an imbalance of humors or fluids, but could instead rise above base drives through exercise of the mind- then to what extent was any man capable of doing so? How would this impact the traditional understanding of authority, based as it was on a long-held understanding of the corporeal body, even if these conceptions were already challenged by the mid-eighteenth century? To overcome the constraints of humoral theory and corruptible flesh required an experiential understanding of the interior body hitherto untouched by physicians. Surgeons sought to emphasize their “learned” qualities,

in *Science Incarnate: Historical Embodiments of Natural Knowledge*, ed. Christopher Lawrence and Steven Shapin, 156 - 201 (Chicago: University of Chicago Press, 1998).

⁷ Lawrence, “Medical Minds, Surgical Bodies,” 169 – 171.

but could not do so without dissecting actual bodies. The surgeons thus required a certain *type* of body for their purposes, one that having been already polluted could be, in a sense, resurrected and reinscribed through the act of dissection.

The second development was that of the expansion and refinement of England's capital code, otherwise known as the Bloody Code, to assert increasing control over the criminal body, alive or dead. The ineffectiveness of even the gallows pushed the law to subsume the criminal body as equally punishable *after* death as by it. Contemporary understanding of the "body politic" as a cosmological principle ordered the universe and the kingdom within an often literal body metaphor, a conception that had already been challenged by the Glorious Revolution. This metaphor in turn corresponded to the execution of punishment on an individual body in order to pacify the whole, the performance of which had become increasingly spectacular and disseminated to a wider audience. Like a gangrenous arm, the offender was amputated in order to stop the spread of moral decay. If the traditional modes of capital punishment could no longer stop the spread of social disease, then a more aggressive treatment was needed. The prescribed purgative was in the Murder Act's newest stipulation, which the Surgeons sought to exploit for their own purposes of legitimation.

Finally, the public, that most unruly limb of the body politic, reacted violently against the imposition of both the surgeons and the State over the dead criminal body. If the Murder Act was intended as a cure for disorder, it seemed the initial diagnosis was incorrect. A good physician would have needed to take a more complete patient history to understand the symptoms of increasing unrest at Tyburn. The body politic reacted against

the surgeons' claims to the condemned body because that imposition resulted in the loss of not just one body, but an entire conception of self that might be dismembered as well. The reduction of one member of the body politic to fragmented parts challenged traditional modes of understanding relationships between the individual and the body politic, the world, and the cosmos. When the crowd "stole" bodies from the surgeons, they were reasserting a traditional understanding of the world, and reclaiming the agency over the body implied in that conceptualization.

These three groups all constituted a part of the body politic, and each had a stake in what the other "limbs" were attempting to do. This chapter will examine only one of these three stories, that of the surgeons, although like the metaphorical body politic, it should not be ignored that a Head is only useful so far as it controls the hands, and the hands cannot operate apart from the torso. It will argue that the legitimacy problem facing eighteenth-century English surgeons collided with the State's crime problem and describe how the surgeons sought to solve both in the dead criminal body. In so doing, this chapter will illustrate how the dead criminal body became a site upon which contentious transformations in society and medical discourse were played out. The final section dealing with the crowd's reaction to the "impositions of quacks" at Tyburn is a rejoinder to the chapter's focus on the surgeons. It is intended as a reminder that discussions of utility, "health", and "knowledge" are useful, but these concepts were ultimately deployed in what was an extremely violent and graphic display of real people whose real bodies were being literally destroyed and taken apart for what is now rationalized as "the greater good".

Few scholars have examined how medical professionalization, the Murder Act, and the role of the dead criminal body in popular belief fit together. In fact, medicine's early historiography often glorified the forward march of progress, venerating those practitioners and their discoveries that improved the quality of life and advanced human knowledge, even while those same doctors simultaneously ignored the true human cost of "improvement". The typical historian of medicine at this early juncture was also a doctor, and so any attempt at analysis often turned into a defense of the profession. Recent work provides a more useful framework through which to study the surgeons of the eighteenth century, particularly the work of Thomas Rogers Forbes and Ruth Richardson.⁸ Forbes proposes a social history of medicine that seeks to tell not the story of the doctors, but that of the patient, thereby providing "an account not of what contemporary medicine

⁸ For further reading in the history of the surgeons in England, see Allannah Tomkins, "Who Were His Peers? The Social and Professional Milieu of the Provincial Surgeon-Apothecary in the Late-Eighteenth Century," *Journal of Social History* 44 (2011): 915-935.; Celeste Chamberland, "Honor, Brotherhood, and the Corporate Ethos of London's Barber-Surgeons Company, 1570-1640," *Journal of the History of Medicine and Allied Sciences* 64 (2009): 300-332.; Drui Burch, *Digging Up the Dead: The Life and Times of Astley Cooper, An Extraordinary Surgeon* (London: Chatto and Windus, 2007).; Christelle Rabier, "Defining a Profession: Surgery, Professional Conflicts and Legal Powers in Paris and London, 1760-1790," in *Fields of Expertise: A Comparative History of Expert Procedures in Paris and London, 1600 to Present*, ed. Christelle Rabier (Newcastle: Cambridge Scholars, 2007).; Patrick Wallis, "Competition and Cooperation in the Early Modern Medical Economy," in *Medicine and the Market in England and its Colonies, 1450-1850*, ed. Mark S.R. Jenner and Patrick Wallis. (New York: Palgrave Macmillan, 2007).; Ruth Richardson, "Human Dissection and Organ Donation: A Historical and Social Background," *Mortality* 11 (2006): 151-165.; John Peter Blandy and John Stuart Penton Lumley, ed., *The Royal College of Surgeons of England: 200 Years of History at the Millennium*. (London: Royal College of Surgeons of England and Blackwell Science, 2000).; Philip K Wilson, *Surgery, Skin and Syphilis: Daniel Turner's London, 1667-1741*. (Amsterdam: Rodopi, 1999).; Helen M. Dingwall, *Physicians, Surgeons and Apothecaries: Medicine in Seventeenth-Century Edinburgh*. (East Linton: Tuckwell, 1995).; G R Williams, *The Age of Agony: The Art of Healing, 1700-1800*. (London: Constable, 1975).; Jessie Dobson, "Barber into Surgeon," *Annals of the Royal College of Surgeons of England* 54 (1974): 84-91.; R S Roberts, "The Personnel and Practice of Medicine in Tudor and Stuart England," *Medical History* 6 (1962): 363-382.

might do but of what it did- or, most often, did not- do.”⁹ Using Forbes’ conceptual framework, this chapter exposes an alternative narrative of eighteenth-century surgeons, one that includes the people who were often victims of their designs. An analysis of the surgeons’ deployment of multiple and often contradictory languages provides us with useful insight into their ideal world. It illuminates the disparity between that ideal and what actually occurred as the surgeons scrambled for legitimacy. In *Death, Dissection and the Destitute*, Ruth Richardson comes closest to analyzing the relationship between doctors, the people and the State leading up to and after the passage of the 1832 Anatomy Act.¹⁰ She argues that the people most affected by the legislation did not allow its implementation, and in fact asserted at every turn agency over their own bodies. While her work has inspired and proved invaluable to this research, this chapter ventures a rethinking of Richardson’s chronology in its argument that an equivalent issue was expressed in the 1752 Murder Act as in the 1832 version. What shifted between the two was the location of that problem from medicine to the body politic.

The language which eighteenth-century English medical practitioners and supporters used to legitimize the practice of dissection, a language of “subject” and “body”, attempted to make the cadaver an anonymous pseudo-martyr for science, increasingly divorced from its emotive component as a human being who once lived.

⁹ Thomas Rogers Forbes, “By What Disease or Casualty: The Changing Face of Death in London.” *Journal of the History of Medicine and Allied Sciences* 31 (1976): 395-420.

¹⁰ Ruth Richardson, *Death, Dissection and the Destitute* (London: Routledge and Kegan Paul, 1987).

The clinical detachment of surgeons represented a novel belief about the body that either collided with, or was integrated into, the more traditional understanding. To bolster the legitimacy of surgery and dissection, surgeons had to demonstrate the utility of their particular conception of the body and its contribution to the common good. Obviously, this was not an easy task. Preceding the Murder Act, anatomists purchased the bodies of criminals hanged at Tyburn among other more sordid procurement methods. Their penchant for dead criminal bodies before and after the Murder Act suggests that the dead criminal body was seen as distinctly different and therefore less offensive to dissect. However, the constant additions to England's Bloody Code up to that point pushed the bounds of an already tenuous public acceptance of execution.¹¹ The public responded violently to the presence of surgeons at the gallows, knowing full well what machinations

¹¹ For further reading on the development and decline of the Bloody Code, see Frank McLynn, *Crime and Punishment in Eighteenth-Century England*, (London: Routledge, 1989). Harry Potter, *Hanging in Judgment: Religion and the Death Penalty in England from the Bloody Code to Abolition*, (New York: Continuum, 1993), viii-30. Douglas Hay, "Property, Authority and the Criminal Law" in *Albion's Fatal Tree*, ed. Douglas Hay et al. (New York: Pantheon, 1975), 17-64. Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth-Century*, (London: Verso, 2003). For a discussion that provides background for both McLynn and Potter, see Michael Ignatieff, *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850* (New York: Peregrine Books, 1978), 15-44. Ignatieff shows how the spectacle of public executions gave way to the prison and a moral management of prisoners in an effort to define where the rich and powerful placed limits on the poor in the midst of English industrialization. The evolution of the public execution at Tyburn is discussed by Pieter Spierenburg, *The Spectacle of Suffering: Executions and the Evolution of Repression, From a Preindustrial metropolis to the European Experience*, For discussion on how the Glorious Revolution of 1688 and Protestant ascendancy ultimately created the Bloody Code, see J.M. Beattie "The cabinet and the management of death at Tyburn after the Revolution of 1688-1689," in *The Revolution of 1688-1689*, ed. Lois G. Schworer (Cambridge: Cambridge University Press, 1992), 218-233. For the ambitious student of English capital punishment, see Sir Leon Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, (London: Sweet and Maxwell, 1956). Treatises on capital punishment from the eighteenth- and nineteenth-century are numerous. John Locke, *Second Treatise on Government*, sections 3, 85, 94. Horace Bleackley, *The Hangmen of England: how they hanged and whom they hanged, the life story of "Jack Ketch" through two centuries*, (London: Chapman Hall, 1929). Alfred Marks, *Tyburn Tree: its History and Annals*, (London: Brown, Langham & Co., 1908). And Bernard Mandeville, *An Enquiry into the Causes of the Frequent Executions at Tyburn*, (Los Angeles: The Augustan Reprint Society, 1964)

their kind represented, and in their collective action asserted what E.P. Thompson has defined as a “moral economy”.¹² This “moral economy” combated what the Italian anatomist Andreas Vesalius called a “moral anatomy”. The contention between the two complicated the intentional performance of execution since, as Peter Linebaugh states the “efficacy of public punishment depends upon a rough agreement between those who wield the law and those ruled by it.”¹³ This chapter supports Linebaugh’s notion as well as the conclusions reached in his research on the Penlez Riots of 1749, most explicitly with his assertion that “The law passed judgment in sable garments and executed sentence with the red towel of the dissecting room.”¹⁴ This chapter seeks to provide a broader context for the riots themselves through analyzing the role of the surgeons and their political and public maneuvering to secure criminal corpses in an effort to legitimize dissection. The Murder Act was not simply an extension of State control and the building

¹² E.P. Thompson, “The Moral Economy of the English Crowd in the Eighteenth Century,” *Past and Present* 30 (1971): 76-136. Regretfully, I cannot fully address the public’s role in the disorder at Tyburn within this paper. I do believe that the crowd’s actions stemmed from the same types of motivations that Thompson discovers in the rural hunger riots of the eighteenth century, in response to a serious violation of traditional paternalist norms in favor of a strict utilitarian or economic rationale, and that while these collective actions initially pushed the State to pass the Murder Act, sustained public resentment and subsequent disorder explains the relative hesitancy with which the State enforced the stipulations of the Act. For further reading on the English crowd in the seventeenth- and eighteenth century, see Tim Harris, “The Bawdy House Riots of 1668,” *The Historical Journal* 29 (1986): 537-556.; For an in-depth analysis of the types, forms, and functions of the London ‘mob’ see Robert B. Shoemaker, “The London ‘Mob’ in the Early Eighteenth Century,” *Journal of British Studies* 26 (1987): 273-304.; Although I disagree with aspects of Williams’ refutation, he provides an interesting counterpoint to Thompson’s original argument, Dale Edward Williams, “Morals, Markets and the English Crowd in 1766,” *Past and Present* 104 (1984): 56-73.

¹³ Peter Linebaugh, “The Tyburn Riot Against the Surgeons,” in *Albion’s Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay et al. (New York: Pantheon, 1975), 65-117. Linebaugh also establishes that surgeons and their hirelings were most often the victims of most disorder at Tyburn.

¹⁴ Linebaugh, “The Tyburn Riot Against the Surgeons,” 69.

of what Linebaugh has elsewhere defined as a “thanatocracy”.¹⁵ In their presentation of the dead criminal body as a solution to their legitimacy problem, surgeons and the debates they engendered altered perceptions of the body. This challenge in turn illuminated the problems faced by disparate groups within the body politic over agency, ownership, and control.

Dying, Death, and the Dead Body

Most historians agree that the English Reformation radically transformed the social and cultural experience of death and dying.¹⁶ The establishment of the Church of England destroyed Catholic hegemony over the death ritual, and replaced its power with a secularized doctrine that privileged the individual both in death and the afterlife. Protestantism dispensed with the notion of Purgatory, intercessory prayers, and masses said for the dead soul, a process that effectively divorced the living from exercising

¹⁵ Linebaugh, *The London Hanged*, 50. Linebaugh defines “thanatocracy” as “a government that ruled by the frequent exercise of the death penalty.”

¹⁶ Philippe Aries, *Western Attitudes Toward Death: From the Middle Ages to the Present*. (Baltimore: Johns Hopkins University Press, 1974) and *The Hour of Our Death*. (New York: Knopf, 1981); David Cressy, *Birth, Marriage and Death: Ritual, Religion, and the Life-Cycle in Tudor and Stuart England*. (Oxford: Oxford University Press, 1997); Mary J Dobson, *Contours of Death and Disease in Early Modern England* (Cambridge: Cambridge University Press, 1997); Scott Dudley, “Conferring with the Dead: Necrophilia and Nostalgia in the Seventeenth Century,” *ELH* 66 (1999): 277-294; Clare Gittings, *Death, Burial, and the Individual in Early Modern England*. (London: CroomHelm, 1984); Vanessa Harding, *The Dead and the Living in Paris and London, 1500-1670* (Cambridge: Cambridge University Press, 2002); Ralph Houlbrooke, ed., *Death, Ritual and Bereavement* (New York: Routledge, 1989) and Houlbrooke, *Death, Religion and the Family in England, 1480-1750* (Oxford: Clarendon Press, 1998); Mark S R Jenner, “Death, Decomposition, and Dechristianization? Public Health and Church Burial in Eighteenth-Century England,” *English Historical Review* 120 (2005): 615-632; Julian S Litten, *The English Way of Death: The Common Funeral since 1450* (London: R Hale, 1991); Andrew Spicer, “‘Rest of Their Bones’: Fear of Death and Reformed Burial Practices,” in *Fear in Early Modern Society*, ed. William G. Naphy and Penny Roberts (New York: St. Martin’s Press, 1997), 167-183; Lawrence Stone, *Family, Sex and Marriage in England, 1500-1800* (New York: Harper and Row, 1977).

agency either for or over the dead.¹⁷ With the spiritual transformation came drastic changes in mortuary custom that mirrored the new importance of individual and the self. The slow decline and eventual disappearance of the heraldic funeral for the elite encouraged the rise of the undertaker and the commodification of funereal wares and practice for the middle and lower classes.¹⁸ Traditional cultural values regarding the “good death” expressed through the *ars moriendi*, as well as long-held beliefs around “decent” burial, were likewise altered in the sixteenth through eighteenth centuries.¹⁹ Contention between the traditional and new forms of death ritual were also affected by the professionalization of medicine, accompanied by Enlightenment philosophy that encouraged through rationalization the distinction between body and soul. The body was a fleeting, temporal entity that only held the soul until death. Therefore, the dead body should be respected but not privileged, and the corpse honored but not glorified.

Yet whatever the changes in the overarching rituals of death and dying, the corpse continued to hold a consistent and pervasive preternatural power. The practice of “waking” the corpse in the interim period between time of death and burial signified not only a fear of burying a loved one alive, but also the lack of scientific knowledge that

¹⁷ Houlbrooke, *Death, Religion and the Family in England*, 35.

¹⁸ Glennys Howarth, “Professionalizing the Funeral Industry in England, 1700-1960,” in *The Changing Face of Death: Historical Accounts of Death and Disposal*, ed. Peter C. Jupp and Glennys Howarth (New York: St. Martin’s Press, 1997), 120-134 and Paul S. Fritz, “The Trade in Death: The Royal Funerals in England, 1685-1830,” *Eighteenth-Century Studies* 15 (1982): 291-316.

¹⁹ On contention over decent burials, see Thomas Laqueur, “Bodies, Death, and Pauper Funerals,” *Representations* 1 (1983): 109-131 and Elizabeth Hurren and Steve King, “Begging for a Burial: Form, Function, and Conflict in Nineteenth-Century Pauper Burial,” *Social History* 30 (2005): 321-341; Jenner, “Death, Decomposition, and Dechristianization?: Public Health and Church Burial in Eighteenth-Century England,” *English Historical Review* 120 (2005): 615-632.

could ensure death had actually occurred. *The Uncertainty of the Signs of Death*, published in 1746, devoted nearly half of its over two hundred pages to a “great Variety of amusing and well-attested Instances of Persons who have return’d to Life in their Coffins, in their Graves, under the Hands of the Surgeons, and after they had remain’d apparently dead for a considerable Time in the Water.”²⁰ A surgeon in Paris published his account of performing an operation on a pregnant woman whom he thought very dead, but she then began to move and grind her teeth, which “convinced him, tho’ too late, of his Rashness.”²¹ Another surgeon, this time in England, had a similar experience after he was “ordered to lay open the Body of a certain Man of Quality before twenty four hours, after his supposed Death.”²² Grave-robbers who tried to steal jewelry from corpses by cutting off the associated limb, were scared away when the corpse awoke with “hideous Shrieks.”²³

Popular belief held that the corpse could “speak”, especially in the case of foul play.²⁴ Formal coroners’ inquests for the well-to-do confronted and modified folkloric tales of corpses bleeding in the presence of their murderer and other providential signs. The coroners’ inquest could never fully overtake the popular belief in the corpse’s

²⁰ Jacques-Benigne Winslow, *The Uncertainty of the Signs of Death, and the Danger of Precipitate Interments and Dissections, Demonstrated . . .* (London: M. Cooper, 1746).

²¹ *Ibid.*, 5.

²² *Ibid.*, 6.

²³ *Ibid.*, 7.

²⁴ Richardson, *Death, Dissection, and the Destitute*, 14.

agency, even while the inquest itself was a scientific version of popular wisdom. A report filed in the *Echo*, the *Edinburgh Weekly Journal*, and the *London Courant* in 1729 told of a “barbarous Murder committed at Glasgow . . . on the Body of one Mary Pursel.” Pursel was found “sunk in the Water . . . her Throat cut through the Bone. Her head hanging to her Body by the Sinew of her Neck, her Right Arm cut at the Wrist . . . her Feet ty’d together . . . and the Tail of her Gown filled with great Stones.” Her body was then brought to Surgeon’s Hall in Glasgow and opened, only to be found seven months pregnant. Although “there were Multitudes of People flocking to view the Corpse,” not one person could identify the murdered and mangled corpse nor produce any clue as to the murderer. However, when a man named Muir made his way to join the multitudes,

he chanced to fall, and tho’ he had received no Hurt . . . he was so stun’d with Confusion, that he could not recover himself . . . when, as if it had been a Voice from God, it was bruted among them that the Woman was with Child to him, and he was the Murderer, not one of the Company being able to tell who spoke it first.²⁵

The whole incident is ascribed to Muir’s mere proximity to the corpse of the woman he murdered, the disembodied voice of truth an accusation from beyond the grave. Muir was promptly seized, hauled before a judge, and convicted of the murder.²⁶

By the eighteenth century the State had usurped the death ritual by siphoning control from the Church, and established increasing control over the dead body in general through requiring coroners’ inquests and encouraging scientific study of death and dying.

²⁵ *Echo or Edinburgh Weekly Journal*, 9 July 1729.

²⁶ *Ibid.*

The rise of an entrepreneurial bourgeoisie centered in London also created a new social barrier even in death between the elite and the lower classes, and it was from this rising middle class that came the surgeons. These new men were looking for power, and desired representation in Parliament and the State. Their trade, like any other in the eighteenth century, had to compete for business and dominance. Then, as now, the hospitals in London vied amongst themselves for not only patients, but more importantly for students. The practice of medicine was not exempt from the increasingly global market, and the London teaching hospitals expressed near constant anxiety over their inability to compete effectively with those in Paris.²⁷ The most significant obstacle in this respect was the procurement of dead bodies for dissection. To overcome this problem, London surgeons would first have to establish themselves as not only legitimate medical practitioners but as saviors of the kingdom and of the body politic.

The Case for the Surgeons and the Impositions of Quacks

The Royal Company of Surgeons (RCS) was established by an act of Parliament under Henry VIII.²⁸ Coincidentally, it was Henry VIII who first codified the practice of giving the bodies of criminals executed at Tyburn to the RCS, although the law stipulated a limit of four bodies per year.²⁹ The RCS operated alongside the Guild of Barber-

²⁷ Although the following focuses on the 1832 Act, it provides a useful historical background of the struggle of the London medical schools, M J Durey, "Bodysnatchers and Benthamites: The Implications of the Dead body Bill for the London Schools of Anatomy, 1820-1842," *The London Journal* 2 (1976): 200-225.

²⁸ J. Dobson and R. Milnes Walker, *Barbers and Barber-Surgeons of London* (Oxford: 1979), 34, 39-45; G. N. Clark, *A History of the Royal College of Physicians of London*, 1 (Oxford: 1964), 84-5, 122, 150-1, 155, 178-9.

²⁹ Ibid.

Surgeons until the early eighteenth century when the two split in 1745. This separation was part of the surgeons' quest for legitimacy, as their case for distinction was framed in the language of superiority. *The Case of the Surgeons of London* positioned the surgeons as "having . . . been more liberally and regularly educated" than the Barbers who "have ever since been engaged in a different Way of Business."³⁰ This particular tract also laid out the necessity of further developing the "Improvement and Profession of Surgery" by making surgery an individual focus rather than one of many for medical practitioners. The separation from the Guild of Barber-Surgeons, perhaps most importantly for the purposes of this argument, was "founded upon Reasons of general and publick Utility."³¹ *The Case of the Surgeons of London* illustrated the motivations, anxieties, and central concerns of the surgeons.

First and foremost was the recognition of their practice as superseding all other medical fields, which the surgeons deemed less important as, or at least dependent on, the advancement of surgery. The surgeons' importance came from their intimate knowledge of the body, learned only through the study of anatomy. This strategy utilized the language of scientific "knowledge" to distinguish the particular skills of the surgeons from those of other forms of medicine. It also deployed a language of divine sanction, from which this scientific "knowledge" flowed. These two languages sometimes found themselves in contradiction, but for the most part the surgeons successfully maneuvered

³⁰ *The Case of the Surgeons of London* (London: 1745).

³¹ *Ibid.*

the space between faith and reason. Second, the surgeons presented themselves as distinct from other medical practitioners such as the Barbers, but also apothecaries, general physicians, and the less educated provincial practitioners. The surgeons wielded the language of public transparency to accomplish this end. This tactic established that any and all other medical practitioners harmed the body, instead of healing it. The most effective method of discerning the efficacy of one medical practitioner over another was whether or not they offered their practice up to public scrutiny. However this language proved the most dangerous for the surgeons.

The effort to legitimize surgery and by extension, anatomy, depended largely on the efficacy of the surgeons to distance their group from that of “superstitious” and wrong forms of medicine. Public perception of medicine and doctors was both a boon and an impediment to this effort. The ubiquity of available medical treatment in the form of medicines, practitioners, and facilities presented the would-be patient with a plethora of choices. Many, if not the majority, were actually detrimental to the patient’s well-being.³² Public perception of doctors, then, was largely informed by rumors of “quack” medicines and probably by personal experience with not only these medicines, but by the negative consequences of either going to a hospital or a doctor. A few lines of verse in the satirical *Grub Street Journal* illuminated popular sentiment: “Before you take his drop or pill/

³² I acknowledge that “health/ well-being” is itself a social construction, but cannot address that argument here. Here, “health” means the desire for life over the inevitability of death if medical treatment were not sought. I understand that this necessarily presupposes the effectiveness of medicine and medical treatment to “cure” ailment, a debate that, again, I cannot address here. I believe that people were persuaded by arguments that medicine was beneficial and therefore did seek treatment. However, the distinction between “good” and “wrong” medical practices was certainly a matter of concern for the surgeons. See Keith Thomas, *Religion and the Decline of Magic* (London: Penguin Books, 1971), 5.

Take leave of friends, and make your will.”³³ People were reluctant to visit medical practitioners for myriad reasons, not least of which was the ability to control access to their bodies.³⁴ However, this did not dissuade many from seeking medical treatment for various ailments. It was this popular aversion to losing agency over the body that surgeons sought to overcome by first establishing the distinctions between surgeons and “quacks” in the minds of the public. A “quack”, given access to the body, would inevitably cause it harm and possibly death. The surgeon, on the other hand, would bring to his examination the weight of education and experience. He, and only he, could ensure the well-being of the body. Thus surgeons sought to build a monopoly of the ontological truth of the body, which could only be gleaned from the corpse. Opening, viewing, and displaying the body allowed the surgeon to demonstrate his total control over life, death, and the mysteries of both.³⁵ Surgeons occupied that “Part of Medicine, whose Effects . . . are most sensible and manifest.”³⁶ They were not the apothecaries or quacks whose “contrary Methods . . . [and] little Doses” were detrimental to the “Publick Welfare.”³⁷ But to the common man or woman, the line between “quack” and surgeon was a thin one,

³³ *Grub Street Journal*, 9 January 1735.

³⁴ Although the work focuses on provincial Eisenach in eighteenth-century Germany, Barbara Duden’s *The Woman Beneath the Skin: A Doctor’s Patients in Eighteenth-Century Germany* (Cambridge: Harvard University Press, 1991) is the best analysis of “access” to bodies and doctor-patient relationships that I have seen.

³⁵ Rebecca E. May, “Morbidity Parts: Gender, Seduction, and the Necro-Gaze,” in *Sexual Perversions, 1670-1890*, ed. Julie Peakman (New York: Palgrave Macmillan, 2009), 167-201.

³⁶ Winslow, *On the Uncertainty of the Signs of Death*, 22.

³⁷ *The Deplorable State of the Sick, from the Impious Treacheries of Many Physicians and Surgeons to the Patients and their Professions*, 23.

if it was discernible at all. Those who found their way to a surgical hospital such as St. Thomas', Guys', or the Royal College itself were unlikely to leave, especially if a surgical operation was required.³⁸



Figure 2. William Hogarth, *The Death of the Harlot*, 1732. In this print, the Harlot dies while the two doctors in black argue over which of their own medicines will be the most efficacious in curing her. The doctors seem to be members of the RCS or other preeminent body, noted by their wigs and clothes, and demonstrates the questionable distinction between them and “quacks”.³⁹

³⁸ Because they died. See Ruth Richardson, *Death, Dissection and the Destitute* for a more thorough discussion on the state of surgery than I can give here.

³⁹ William Hogarth, *A Harlot's Progress*, Plate V. Hogarth developed an interesting relationship with the London doctors, at once glorifying them and satirizing others. See Finley Foster, “William Hogarth and the Doctors,” *Bulletin of the Medical Library Association* 32 (1944): 356-368.

The poor were guinea pigs, who in exchange for some money could have an operation that would likely kill them, as surely as the “little Doses” prepared by the apothecaries and quacks “which you may swallow, and sh—out, and swallow again 50 times, till you are cured.”⁴⁰ Throughout the eighteenth century, there existed no code of ethics to which surgeons could be held, only a loose code dictated by how far the surgeons could push the boundaries of middle-class and elite sentiment.⁴¹ As late as 1778, a distinguished surgeon such as John Hunter could, and did, posit that healthy teeth could be transplanted from one person to another for the purposes of cosmetic dentistry. Hunter theorized that the “young second teeth” of children were best for transplantation, and suggested that a ready supply of young children be on hand in case the first transplant did not fit. Hunter actually attempted these transplants, and only ceased when contemporaries expressed outrage at his blindness to the humanity of poor children.⁴² Without an established code of ethics, the language of the surgeons as they distanced themselves from the “quacks” provided a loose framework of professional standards.

Attacks leveled against the lesser sort of medical practitioners seemed at first glance genuine pleas for a stricter code of ethics, of licensing, and indeed a higher standard of care from the patients themselves. Upon closer inspection these sources included these types of requests, but were in fact written by surgeons and physicians in an

⁴⁰ *Grub Street Journal*, 9 January 1735.

⁴¹ Ruth Richardson, “Human Dissection and Organ Donation: A Social and Historical Background,” *Mortality* 11 (2006): 150-164.

⁴² John Hunter, *The Natural History of the Human Teeth: Explaining Their Structure, Use, Formation, Growth, and Diseases* (London: 1778.) This has since been termed “Hunter’s Blindness.”

attempt to control who would have access to a patient's body. Gideon Harvey's 1686 *The Conclave of Physicians, in Two Parts: Detecting Their Intrigues, Frauds, and Plots, Against Their Patients, and Their Destroying the Faculty of Physick* purported to be a "sincere design of cautioning Physicians and Chyrurgions [surgeons], in the exercise of their Profession," but achieved this end by "setting before their Eyes the Errors, Frauds, and male practice [malpractice] of some Physick Doctors of Paris."⁴³ Harvey's tract is interesting because it asserted that a Catholic doctor was guided by superstitious and wrong perceptions of the body. Thus the Continental medical schools were "the eldest Quack Synagogue, consisting of a Physick Pope or Patriarch, and a Competent number of Medicinal Cardinals."⁴⁴ Their physicians and surgeons were notorious for "granting Bulls of Absolution for Poysoning a man." When their medicine inevitably failed the patient, "all mankind is implicitly to believe, the Patient either died impossibly cureable, or recovered his health at the hands of the Learned."⁴⁵ Harvey's preamble concluded with the assurance that the purpose of his work "is not to set up a Beacon to light Patients to my House," but implicitly encouraged it, because the Protestant Harvey knew of "new Principles in physic, of greater use than any yet known."⁴⁶ Harvey's ability to expose the

⁴³ Gideon Harvey, *The Conclave of Physicians, in Two Parts: Detecting Their Intrigues, Frauds, and Plots, Against Their Patients, and Their Destroying the Faculty of Physick: Also a Peculiar Discourse of the Jesuits Bark, the History Thereof, With Its True Use and Abuse: Moreover an Account of Some Eminent Cases and New Principles in Physick, of Greater Use Than Any Yet Known* (London: 1686).

⁴⁴ Ibid.

⁴⁵ Ibid.

⁴⁶ Ibid.

“intrigues, frauds, and plots” of quacks rested on his own deployment of the discourse of superiority, science, and anti-Catholicism.

The rhetoric of scientific superiority was not the surgeons’ only tactic for legitimization. Surgeons’ tracts also used the language of public transparency. First, they struck against the pretenders, impostors, and quacks only to then offer their own superior qualifications and remedies. Newspaper advertisements identified a community’s malaise: “The Town still being imposed upon, and the Publick Prints daily cramm’d with the Praises of infallible Specificks, Arcana’s, Italian Bolus’s, and many other Quack Medicines, it is thought necessary to caution the Unwary against them.”⁴⁷ Surgeons then attempted to reason with potential patients, appealing to what was presented as common sense:

Are the best Physicians, or most eminent Surgeons, ashamed of their Prescriptions and Preparations? Must the severe Affliction of an Impostor’s Pocket indure Men to ruin their Constitutions? . . . Are not Mens Constitutions vastly different? Was there ever a Remedy always infallible? Do not the same Things agree with one, and prove Poison to another? Or are there not a sufficient Number of Able and experienced Physicians and Surgeons, who practice in Publick, and whose Credit [reputation] depend upon their Skill and Success?⁴⁸

A surgeon understood that “Mens Constitutions [are] vastly different” and *knew* this because of direct experience with a wide array of bodies. His was not a knowledge learned from medical texts and applied generally to the whole, but specific and

⁴⁷ *Daily Journal*, 29 April 1726.

⁴⁸ *Ibid.*

experiential based on touch, manual experience, and observations. The tract finally revealed the true purpose of the author's appeal, for the reader to "therefore apply to some Man of Skill and Probity" who "invites you to his House . . . [and] who, from the most nauseous Degree of that unhappy Disease, will retrieve you to Health and Vigour."⁴⁹ Even those surgeons who advertised in such a manner were viewed as "quacks", for "nothing represents more the Character of a Quack, than in publishing in the News, and printed Bills . . . with which he picks Pockets, sooner than he can cure any disease."⁵⁰ This was such an unclear distinction that the author who clearly defined this "Character of a Quack" concluded with a published treatise on his own, and certainly more efficacious, cure for venereal disease.⁵¹

Surgeons and their supporters either blundered toward, or skillfully maneuvered, this blurry line between learned practice and "quackery." Jacques-Benigne Winslow, another surgeon who bemoaned the state of medicine only to promote his own discoveries, argued that the failure of medicinal remedies owed "less . . . to the Imperfection of Medicine, than to the Ignorance or Negligence . . . the Carelessness, Poverty, or perhaps sometimes the wicked Disposition of those who have the Care and Management of the Sick."⁵² Surgeons especially lacked the "wicked Disposition" of their

⁴⁹ Ibid.

⁵⁰ Vincent Brest, *Remarks on the Impositions of Quacks, so Much Practiced in This Kingdom. Wherein is Exposed to the Publick, the Means of Distinguishing Them From Able Physicians and Surgeons* (London: 1730).

⁵¹ Ibid.

⁵² Winslow, *The Uncertainty of the Signs of Death, and the Danger of Precipitate Interments and Dissections, Demonstrated*.

less-educated peers, as “Chirurgical Measures . . . [are] esteemed most proper for these important Purposes.” The surgeon was incapable of “Carelessness” because he possessed intimate knowledge of the body’s interior.⁵³ These “important Purposes” included providing expert testimony at murder trials, such as the case of “Han. Hall, Surgeon” who in 1728 “was asked by the King’s Counsel in how short a Time the whole Mass of Blood might be empty’d out of a Human Body, by cutting the Jugular Veins,” and ensured the conviction of Mr. Hutchisson, accused of murdering his wife in the same manner.⁵⁴ Winslow’s treatise and Hall’s testimony are especially illuminating as they explicitly stated the surgeon’s contribution to the health of the body politic gleaned from experience with the body and not simply from theory.⁵⁵

Establishing legitimacy relied on distinguishing for the public the difference between the “Eminent and Able” and “Quacks”, but surgery and anatomy depended as well on acknowledgment from those who held political power. Surgeons manipulated the language of politics to their own advantage, and touted themselves as the healers of the kingdom and its subjects. Parliament thus became “that august Body” not unlike the body of a sick patient.⁵⁶ The King was the heart, the center of life, “the sovereign of everything within . . . the sun of their microcosm, that upon which all growth depends, from which

⁵³ Ibid.

⁵⁴ *London Evening Post*, 9 July 1728.

⁵⁵ Ibid., It seems unlikely that Hall’s ability to know that a severed jugular vein empties the body of blood in “about a Quarter of an Hour” should come from any other source than his own surgical experience.

⁵⁶ *Mist’s Weekly Journal*, 25 February 1727.

all power proceeds.”⁵⁷ The surgeon’s “Trade, without Question . . . the vital Principle of this political Body.”⁵⁸ Parliament could not afford to ignore the present “languishing Condition” of a kingdom on the brink of war and saddled with extraordinary debt, and must “administer the most reviving *Cordials* to it” as a surgeon promised his charge.⁵⁹ The health of the nation depended upon the advancement and support of surgeons who “are . . . more Honest and Learned than our Enemies, who would secure us from . . . Destruction.”⁶⁰ The fate of the “miserable English . . . [and] our Life” depended on the desertion or “Care of the Magistrate” in this matter.⁶¹

Establishing the efficacy of anatomy and dissection required the surgeons to manage a double-edged sword, one that espoused transparency but threatened to undermine their own efforts. It seems possible that the average subject knew at least one rumor of the fatal consequences of visiting a surgeon, whether he be deemed a “quack” or not. Warnings to avoid certain types of medical practitioners could not be successful without a public demonstration of the efficacy and benefits of surgery, achieved by making more visible the practice of anatomy, albeit only to a point and accessible only to

⁵⁷ William Harvey, *An Anatomical Disquisition on the Motion of the Heart and Blood in Animals* (London: 1628).

⁵⁸ *Mist’s Weekly Journal*, 25 February 1727. The preamble to this anonymous letter states “The following Epistle, which by the Stile may be suppos’d to come either from some Gentleman of the College of Physicians, or at least from some Member of Surgeon’s Hall, being upon the Subject of Present Times, we shall present our readers without any alteration.”

⁵⁹ *Ibid.*

⁶⁰ *The Deplorable State of the Sick*, 43.

⁶¹ *Ibid.*

members of a certain class. Notices appeared in newspapers for anatomy lectures given by surgeons so that “any Gentleman may, with the Help of these Lectures, acquire a right Understanding of the Structure of the Human Body.”⁶² These public lectures did not seek to confer a certificate of anatomy at the end such as those gained by surgeons in the course of their medical training. Rather their purpose was to share a modicum of “knowledge” and “understanding” in order to demonstrate the legitimacy of the surgeon’s craft, especially as it related to the body. However, the bodies provided in these public lectures were often “Wax Figures of Artificial Anatomy . . . so exact and natural, so artfully contriv’d, so exactly made after Life,” and not, as was the case in surgical training, an actual cadaver.⁶³

Those cadavers necessary for surgical training had to come from somewhere, and surgeons debated over the necessity of actual corpses and how best to procure them while simultaneously maintaining a positive public image. The need for corpses and the public’s protection of them presented a serious issue for the surgeons. The language of legitimacy rested on comparison to the horrors perpetrated on patients by inferior surgeons or quacks, but ultimately exposed their own hypocrisy and true intentions. Harvey’s exposé is no supporter of anatomy generally. He stated that when surgeons secure a cadaver, they “fall hewing and flaying these Carkasses like Cannibals.”⁶⁴ The

⁶² *Daily Journal*, 20 January 1727.

⁶³ *Ibid.*

⁶⁴ Gideon Harvey, *The Conclave of Physicians*, 10.

surgeon was a cannibal precisely because anatomy was akin to butchery, an unnecessarily dirty tool for the “learned” medical practitioner. Indeed, according to Harvey, “Anatomy is no further necessary to a Surgeon, than the knowledge of the nature of wood to a Carpenter.”⁶⁵ But perhaps this unfortunate comparison could be avoided if surgeons proved that when anatomy took place in a healthier body politic, it would be guided by the principles of rational enquiry rather than for the satisfaction of base desires.

In the centuries preceding the passage of the Murder Act, surgeons already discussed the possibility and procurement of using the bodies of executed criminals. When surgeons spoke to each other, they claimed dissection “collected the truth or confuted error,” engaged as it was in exposing the machinations of the body’s interior.⁶⁶ The surgeons sought each other’s approval before presenting their “art” to the public. Even William Harvey expressed fear that he “might be charged with presumption did I lay my work before the public at home . . . unless I had first proposed its subject to you.”⁶⁷ When this particular deliberation did leak into the public realm, it mimicked the surgeons’ own attempts at legitimacy by using the language of reason and pragmatic utility. In *An Enquiry into the Causes of the Frequent Executions at Tyburn*, philosopher and physician Bernard Mandeville asked his readers to “suppose that many of our common Thieves were not buried at all, and some of them made Skeletons; and that

⁶⁵ Ibid., 31.

⁶⁶ Ibid., 3.

⁶⁷ Ibid., 5.

several Parts of others, variously prepared . . . be preserved for the Instruction of Students.”⁶⁸ Dissection served a practical purpose, and besides, the ignominy of it “would seldom reach beyond the Scum of the People.”⁶⁹ The executed criminal body was already polluted by crime and justly destroyed in order to save the body politic, and surgeons could use them to re-impose order through the general good of dissection. On the dissecting table, Mandeville’s “Scum” could become saints in their martyrdom for progress. Like most elite discourse-turned-practice, the surgeons and early utilitarians did not anticipate that their plan would meet with serious resistance.

Satirizing the Surgeons

Critique of the surgeons came from an entrenched popular culture delighting in satire, from the literate middling-sort who served as an informal watchdog of State action. As with most satire, it presented a truer picture of society and surgeons than official sources like Harvey or Hunter. When the State supported the efforts of surgeons before the passage of the Murder Act, the satirists expressed incredulity by taking the State’s logic to its most extreme conclusion. For instance, after Dr. William Cheselden secured a reprieve from execution for a criminal named Rey in order to perform an operation on his eardrums, the “eminent and learned Physician Ephraim Queieus” wrote to the satirical sheet the *Grub Street Journal* in 1731.⁷⁰ Dr. Queius proposed that if the

⁶⁸ Bernard Mandeville, *An Enquiry into the Causes of the Frequent Executions at Tyburn: And a Proposal for Some Regulations Concerning Felons in the Prison, and the Good Effects to be Expected From Them*. (London: 1725).

⁶⁹ Ibid.

⁷⁰ Charles Rey was condemned with fifteen other malefactors at the Old Bailey in December 1730, but “On Monday, the 21st Instant, two Days before the Execution . . . receiv’d his Majesty’s most Gracious

State allowed reprieves for operations, then why stop at only the ear which “I have long been of the opinion, that not only the drum, but the whole organ, is of no use at all in hearing, notwithstanding the vulgar opinion.”⁷¹ If surgeons were to perform experiments on condemned persons, why stop at the ear? Perhaps the surgeons should remove the spleens of malefactors to see “whether their inclinations to evil courses” depended on too much bile, or the “tying up of one of the testicles” to determine if the sex of a child could be manipulated in this manner. According to the fictional Dr. Queius, both experiments would greatly benefit the kingdom, as the first would render the malefactor a useful subject instead of a dead one, and the second would allow “many illustrious families . . . [to] be informed of a just and certain method of obtaining an heir to their estates.”⁷² Ultimately, Dr. Queius concluded that his proposal for experimentation on malefactors, instead of hanging, meant “we could never be at any loss for proper subjects, to afford us a sufficient opportunity of satisfying our curiosity.”⁷³

Reprieve, and (as is talk'd) is to have the Drum of his Ear cut for an Experiment.” Ordinary of Newgate’s *Account*, 23 December 1730. For additional reading on the *Grub Street Journal* see James Theodore Hillhouse’s excellent volume, *The Grub-Street Journal* (New York: B. Blom, 1967), and the exhaustingly comprehensive Bertrand A. Goldgar, *The Grub-Street Journal, 1730-1733* (London: Pickering and Chatto, 2002). Although his analysis focuses on British satire after my own period of study, Gary Dyer’s work contextualizes the ubiquity of satirical sheets in *British Satire and the Politics of Style, 1789-1832* (Cambridge: Cambridge University Press, 1997). See also Nicholas Hudson and Aaron Santesso, ed., *Swift’s Travels: Eighteenth-Century British Satire and Its Legacy* (Cambridge: Cambridge University Press, 2008).

⁷¹ *Grub Street Journal*, January 7, 1731. The assertion that Dr. Queius is a pseudonym is based on the fact that there is no such name on the surgeon’s rolls for the city of London, and also that the *Grub Street Journal* generally published more satire than other contemporary publications.

⁷² *Ibid.*

⁷³ *Ibid.*

Dr. Queius' letter uncovered the popular view of surgeons as men who used their position as distinguished practitioners to conduct experiments on the populace. The letter also applied the surgeons' own language of scientific "knowledge" to espouse several obviously ludicrous hypotheses. Dr. Queius set his discourse apart from the "vulgar opinion" by touting himself as "eminent and Learned," just as actual surgeons tried to do in their own tracts and advertisements. For Dr. Queius, the malefactor became a "proper" or "useful subject" under the trained hand of the surgeon and the watchful eye of the State and therefore mimicked the pleas of Mandeville. Most surprising is that amongst all other eighteenth-century social ills to satire, the "eminent and learned Physician" chose to level his ire against the treatment of criminal bodies, alive or dead. And Dr. Queius is not the only one to satirize the surgeons and their unfeeling "curiosity".

A letter published in the March 18, 1723 *Pasquin* is addressed to Dr. -----, from "Merry Rablais".⁷⁴ In it, Rablais expressed his dismay at his "Friend *Jack*" who had "set up for a Patriot; tho' I am satisfied the same Genius which made you a Physician, might soon make you as good a Politician." Rablais alerted his friend to the dangers of trying to "purge the Body Politick, as well as your Patients." He then described how his colleagues laughed when news of Jack's turning "Patriot" reached their ears,

Rad---iffe shook his Sides, and call'd you a meddling Puppy: For my own part, says he, I have fill'd a pretty many Church-yards in my Life-time with much about the same Knowledge as he has, and was a kind of Malcontent in my latter Years; but I always took care to preserve my Carcass entire, and not compliment Surgeon's Hall with the Opportunity of finding out a new Gland or Duct in my Body, after the faithful operation of the Hangman.

⁷⁴ *Pasquin*, 18 March 1723. It could be that the author was fashioning himself after Francois Rabelais, fifteenth-century writer, satirist, doctor, and generally fascinated with the grotesque.

By virtue of maintaining the airs of a good doctor and not, as “Friend Jack” had done by exposing himself to the watchful public eye by dabbling in politics, Radcliffe has avoided being detected, convicted, and anatomized by his colleagues. Whether or not Rablais, his colleagues, and “Friend Jack” believed themselves able surgeons, there remained an implicit recognition in the failings of the practice itself, the imperative of secrecy above genuine public transparency, and intimated the dangers of collusion between the surgeons and the State.

For many satirists, secrecy and deception were perhaps the most disconcerting elements of medicine, surgery, and anatomy. Although the surgeons attempted a show of transparency, there seemed always something more sinister and deceitful. In a letter to the physicians and surgeons of London, an “Eminent Divine” recalled a conversation he had with some professors of medicine at the last college where he held a position. He asked the professors and their students, “how long they intended to cultivate and increase the fraudulent and pernicious Practice” of teaching their “wretched Quackery.” Much to his chagrin, the professors “reply’d with great Impudence, as long as the People cannot discover it, as long as we must live by it.”⁷⁵

⁷⁵ *The Deplorable State of the Sick*, 37.



Figure 3. William Hogarth, *The Reward of Cruelty*, 1751.

Perhaps the most famous representation of surgeons, dissection, and the criminal body is William Hogarth's 1751 *The Reward of Cruelty*, the fourth panel in his series *The Four Stages of Cruelty*. Hogarth's print was intended as both a satire and a moral warning to the lower classes. The exaggerated imagery exemplified public perception of what dissection entailed, and by extension, the truth of what the surgeons worked so hard to procure. The body of Tom Nero lies on the surgeon's table, fresh from Tyburn as

indicated by the noose around his neck.⁷⁶ The leader of the group, possibly the president of the RCS, sits in the center of the frame. A beak-nosed surgeon cuts through Nero's abdomen while his other hand is wrist-deep in the chest cavity. Another surgeon, smirking, holds Nero's head (even though that task is already accomplished by the pulley and screw drilled into Nero's forehead) while removing his eye with a surgical instrument. Nero's intestines are unraveled into a bucket sitting on the floor, while yet another surgeon sifts through the entrails searching for some organ while a dog is about to eat Nero's heart. The bones of other malefactors are boiled and made into skeletons, evidenced by the two skeletons pointing at each other in the far left and right corners of the frame. The remainder of the surgeons gather around the table, some arguing, others simply observing, but all are men from the upper echelon of society. Nero's face is contorted in agony, and this was the lesson Hogarth wishes to impart. The *Reward of Cruelty* was not the hangman's noose - Hogarth's series did not even include a panel of Nero at Tyburn, but rather of his final resting place on a dissection table at Surgeon's Hall.⁷⁷ Nero has lost not only his life, but also his body. The surgeons cut through his skin and eventually boil it away, his bones will grace the anatomy hall of one school or another, and no one quite knows what happens to his entrails but the dog may give some indication as to that end.

⁷⁶ William Hogarth, *The Reward of Cruelty*, 1751. See also Mark Hallett, *The Spectacle of Difference: Graphic Satire in the Age of Hogarth* (New Haven: Yale University Press, 1999).

⁷⁷ Hogarth's *Idle Prentice Executed at Tyburn* does include this scene, but even then- the execution itself is but a miniscule part of the larger "mob".

The surgical theatre in *The Reward of Cruelty* was also the subject of the English stage. Act II, Scene I of *The Beggar's Opera* finds a criminal gang conversing “at the table, with wine, brandy and tobacco” in a tavern near Newgate. Ben Budge has just returned illegally from transportation to the colonies and asks Matt of the Mint what has become of Matt's brother, Tom. Matt replies,

Poor brother Tom had an accident this time twelve-month, and so clever a made fellow he was, that I could not save him from those slaying rascals the surgeons; and now, poor man, he is among the atomies at Surgeon's Hall.⁷⁸

While *The Beggar's Opera* was the source of much consternation for the middling and elite sorts, the targets of the majority of its satirical content, this conversation between Ben, Matt, and Jemmy reflected a startling reality for members of their social class.⁷⁹ Turn to a life of crime, even if of necessity, and it was likely to end “among the atomies at Surgeon's Hall.” The almost flippant response to Tom's ignominious end proved poignant testimony to the relationship between the surgeons and malefactors. The surgeons may have been satirized and made suspect, their actions and language manipulated, dissected, and exposed for public viewing, but this did not detract from their ability to procure corpses- mainly those of criminals, like Tom Nero, executed at Tyburn.

⁷⁸ John Gay, *The Beggar's Opera* (London: 1745), II.I. See also John Richardson, “John Gay, The Beggar's Opera, and Forms of Resistance,” *Eighteenth-Century Life* 24 (2000): 19-30.

⁷⁹ For a more in-depth discussion of the reception of *The Beggar's Opera*, see Tim Hitchcock, *Down and Out in Eighteenth-Century London* (London: Hambledon Continuum, 2004), 211-212.

Surgeons and Malefactors

Despite finding themselves the subject of satire and concern, surgeons were largely successful in securing dead criminal bodies with surprising frequency from Tyburn. Eighteenth-century newspapers often commented on the fate of the malefactors' dead bodies, and the disorder occasioned by treatment of the corpse itself. For example, the *Weekly Journal* reported in 1722 that of the "twelve Malefactors [who] suffer'd at Tyburn," one was carried back to its home in Black-Fryers to be buried in the "same Grave with his Wife whom he murder'd," nine others were buried intact in parishes around the city, one named Jennings was carried to an unnamed surgeon's residence while the other was given to Surgeon's Hall.⁸⁰ The papers were particularly interested in those bodies that were given over to dissection, noting either the novelty of the practice or with the intention as a warning to those who read it, or even a combination of the two.

While the act passed by Parliament under Henry VIII gave four bodies a year to English surgeons, this number could not possibly satisfy the actual amount of bodies needed to train the increasing number of surgeons in London's teaching hospitals.⁸¹ Surgical licenses were issued only to those students who received a certificate of completion from a course in anatomy, which required the actual experience of dissecting a corpse. To supplement the legally mandated number of bodies available to surgical teaching hospitals, many schools paid grave robbers, or "resurrection men", to exhume

⁸⁰ *Weekly Journal or British Gazetteer*, 29 September 1722.

⁸¹ It has been estimated that two or three bodies were required for the training of each surgeon. Durey, "Bodysnatchers and Bethamites," 203.

bodies from local churchyards and deliver them to the surgical hall.⁸² Contemporaries speculated to the existence of this practice, observing that the amount of anatomy lectures announced necessarily required “every Lecturer to be furnished with, at least, one fresh Body once a Week . . . [and] the *Pupils* . . . to have two or three Bodies at the same Time under Dissection.”⁸³ Four bodies reasonably required once a week, and the author was “sure they have not all these bodies from *Tyburn* . . . we may reasonably conclude, that by far the greatest Part must be procured by a *good Understanding* with those who have the Custody of the Dead.”⁸⁴ This practice was so abhorred by the public that spectacular tales abounded of the spectres of deceased relatives visiting their survivors, prompting them to verify the corpse still rested in its grave, and rioting if it had been removed.⁸⁵ The surgeons faced a considerable conundrum as a result of public awareness and fear of body snatching. Their “art” required bodies for dissection but no law existed to secure corpses save that centuries-old and inadequate statute. The public despised the surgeons for violating the sanctity of the grave. Surgeons needed to convince the public of their

⁸² Bodysnatching has been well-documented by several historians, namely Richardson, *Death, Dissection, and the Destitute* and “Human Dissection and Organ Donation,” and James Moores Ball, *The Sack-‘em-up Men: An Account of the Rise and Fall of the Modern Resurrectionists* (Edinburgh: Oliver and Boyd, 1928) as well as contemporary sources such as James Blake Bailey, *The Diary of a Resurrectionist, 1811-1812: To Which are Added an Account of the Resurrection Men in London and a Short History of the Passing of the Anatomy Act* (London: Swan Sonnenschein, 1896) so will not be discussed here. This study takes as fact that resurrection men existed, that surgeons paid for their services to procure bodies for dissection, and that the public knew of, tried to prevent, and retaliated against this practice.

⁸³ *Westminster Journal*, 20 December 1746.

⁸⁴ *Ibid.*

⁸⁵ Ruth Richardson, *Death, Dissection and the Destitute*, 55-58, 60.

practice's utility in order to procure bodies without offending feelings of morality or sensibility. Who then to dissect?

Under these circumstances, the condemned presented an appealing solution. Rather than stealing the bodies of the poor, the surgeons could wait until poor criminals met their demise at Tyburn. This was already the practice in other countries where anatomists, as Mandeville pointed out,

have a Power given them by the Legislature to demand, for this Purpose, the Bodies of ordinary Rogues executed . . . but, with us, it is the general Complaint of all Professors of Anatomy, that they can get none to dissect: Where then shall we find a readier Supply; and what Degree of People are fitter for it than those I have named [the condemned]? When Persons of no Possessions of their own, that have slipp'd no Opportunity of wrongdoing whomever they could, die without Restitution, indebted to the Publick, ought not the injur'd Publick to have a Title to, and the Disposal of, what the others have left? And is any Thing more reasonable, than that they should enjoy that Right, especially when they only make use of it for commendable Purposes?⁸⁶

The surgeons could, and often did, offer money to the condemned in exchange for their bodies after they were hanged. So it was that John Wilkins, alias Robinson, "being entirely Friendless, and without any Support . . . enquire[d] after a Surgeon to purchase his Body, to supply his present Necessities."⁸⁷ This exchange should not be interpreted as indicative of a widespread belief that the dead body did not hold much import to the living.⁸⁸ Rather, the condemned used the money for any number of reasons. If the

⁸⁶ Mandeville, *An Enquiry into the Causes of the Frequent Executions at Tyburn*, 27.

⁸⁷ Ordinary of Newgate's *Account*, 21 January 1747.

⁸⁸ This chapter, as well as the work of the many historians mentioned above, has hopefully already proved that this was absolutely not the case.

condemned had no family to claim him or see him die, he often purchased “dying clothes” in which to hang, such as William Signal who in 1752 declared to the Ordinary that he and his comrades “would send for some Surgeons to give them Money for their Bodies, for, by G-d, they were resolved to die game.”⁸⁹ Should the condemned have family, the money received would then go to support his/her survivors, as very few would have left wills to serve this same end.⁹⁰ If the condemned did not consent to the exchange, the surgeon could purchase bodies from the gaoler or hangman.

The surgeons or a hired man then waited under the gallows, and, when the body was taken down, the corpse was loaded into a cart and driven away to be anatomized. A survey of newspaper reports and Ordinary of Newgate’s *Accounts* indicates that the surgeons took more bodies from Tyburn in the first half of the eighteenth century than at any other time. So it went for Thomas Jennings, alias Milksop in 1722, carried to Surgeon’s Hall while the other executed criminals went to “the usual Places of those unfortunate Persons Residence.”⁹¹ Lewis Houssare murdered his wife in 1724 “by barbarously cutting her Throat with a Razor,” and was in turn sent to Surgeon’s Hall for dissection.⁹² In 1726, Gabriel Lawrence was convicted of sodomy and then dissected.⁹³

⁸⁹ Ordinary of Newgate’s *Account*, 13 July 1752.

⁹⁰ The scarcity of will-making amongst the poor has been documented by Ralph Houlbrooke, *Death, Religion, and the Family in England*, 83-87; Keith Wrightson, *English Society, 1580-1680*, (London: Hutchison, 1982), 117-121.

⁹¹ *Weekly Journal or British Gazetteer*, 29 September 1722.

⁹² *Daily Post*, 8 December 1724.

⁹³ *Daily Journal*, 11 May 1726.

John Chapple was carried to Surgeon's Hall and William Williams to St. Thomas's Hospital "in order for Anatomy" in March 1731.⁹⁴ Four months later, Thomas Granger, alias Corfield, robbed his master and "was carried to Surgeon's Hall."⁹⁵ A soldier named Hughes "hung about 20 minutes," until his corpse made its way to Surgeon's Hall "to be anatomiz'd, for the Improvement of the Art of Surgery."⁹⁶ Daniel Malden and William Rine were executed in 1736 and carried to Surgeon's Hall, while the other executed criminals were "delivered to . . . Friends."⁹⁷ Not a single criminal mentioned here was legally "given" to the surgeons in their condemnation at the Old Bailey, which points to the surgeons' ability to purchase or simply take the bodies of criminals executed at Tyburn.⁹⁸ Sometimes, the surgeons procured the criminal corpse with little to no trouble and at others, the surgeons' imposition was a catalyst for chaos.

Some "riots" at Tyburn ensued as a direct response to surgeons taking the bodies of criminals after they had been executed. These collective actions follow in the long English tradition of the common people "rioting" to protest the overstepping of

⁹⁴ *Daily Courant*, 9 March 1731.

⁹⁵ *Daily Courant*, 27 July 1731.

⁹⁶ *General Evening Post*, 3 June 1735.

⁹⁷ *London Daily Post and General Advertiser*, 3 November 1736.

⁹⁸ Sentences of these criminals can be found in the *Proceedings of the Old Bailey*. Jennings, September 7, 1722; Houssare (or Hussar), October 14, 1724; Lawrence, April 20, 1726; Chapple (or Chappel) and Williams, February 24, 1731; Granger, alias Corfield, July 14, 1731; Hughes, May 22, 1735; Malden, May 5, 1736.

acceptable social bounds by their superiors.⁹⁹ In many instances, the executed criminals' friends or the crowd rushed to secure the corpse before the surgeons could lay a hand on it. Whether or not the criminal whose corpse occupied the center of this struggle had asked his friends to intervene at Tyburn or if the crowd stepped in without prompting, the disorder at Tyburn around the criminal corpse represented a pervasive fear of dissection, an entrenched disgust for the surgeons' work, and an expression of bodily agency by the living on their own behalf and that of the dead body.¹⁰⁰ The condemned sometimes entreated their friends and family to rescue their bodies from the hands of the surgeons. Martin Grat, condemned for returning from transportation, "said he was greatly frightened, least his Body should be cut, and torn, and mangled after Death, and had sent his Wife to his Uncle to obtain some money to prevent it."¹⁰¹ When Joseph Blake was convicted of burglary and condemned to execution in 1724, he said to his captors, "I know I am a dead Man; but what I fear is, that I shall afterwards be carried to Surgeon's-hall and anatomiz'd." At Blake's conviction, his captor, the infamous Jonathan Wild, assured Blake that "I'll send you a good Book or two, and provide you a Coffin, and you shall not be anatomized."¹⁰²

⁹⁹ Thompson, "The Moral Economy of the English Crowd in the Eighteenth Century."; Shoemaker, "The London 'Mob' in the Early Eighteenth Century."; Tim Harris, *The Politics of the Excluded, 1500-1800* (New York: Palgrave, 2001).

¹⁰⁰ The condemned sometimes did entreat their friends to attend execution, such as James Caldclough who asked that his friend Nanny "not shun coming because you have no Money, for I know Persons can't always get Money; so I beg if you have any Value for me, not to detain yourself from coming to me, which is all the Comfort I have in this careless World." Ordinary of Newgate's *Account*, 2 July 1739.

¹⁰¹ Ordinary of Newgate's *Account*, 3 April 1721.

¹⁰² *Select Trials at the Sessions-House in the Old Bailey, for Murder, Robberies, Rapes, Sodomy, Coining, Frauds, Bigamy, and Other Offenses* (Dublin: 1742), 162-164.

In November 1723, three men were sent to Newgate “for being concerned in the Riot, in taking, and carrying away by Force, one of the Bodies of the Men executed last Week at Tyburn, which was designed for Surgeon’s Hall.”¹⁰³ Before the passage of the Murder Act, these men’s crime was twofold: they had “stolen” what was construed as belonging to the surgeons because the latter had bought and paid for the corpse in question, and incited or participated in a “riot” which did not disperse an hour after the Riot Act was read.¹⁰⁴ The same report stated that when the three men went to trial, “’tis likely to go hard with them, in regard they were seized after the late Act against Riots had been read, of which they took not the least Notice.”¹⁰⁵ These three unnamed men and the corpse that they had carried away not only caused the “riot” in question, but did so in express disregard of a legal mandate. Disorder at Tyburn demonstrated that the public would not so easily hand over control of the corpse to either the surgeons or the State.

The execution of infamous criminals such as that of George Ward in 1736 already caused consternation for the State because of the popularity or notoriety of the condemned. Ward’s execution was to exemplify the power of the State and its ability to ensure order by punishing criminality, but the crowd refused to be cowed:

as soon as he was cut down, the Surgeons Officers carrying him to be put into a Hackney Coach for Surgeon’s Hall, the Mob opposed it, and a

¹⁰³ *London Journal*, 16 November 1723.

¹⁰⁴ James White, Richard Whiting and James Mackey were the only criminals executed at Tyburn on 6 November 1723 to which this report refers. Neither the Old Bailey Proceedings or the Ordinary of Newgate’s *Account* denotes which of the three men were “designed for Surgeon’s Hall.” For other examples of transgressions against the Riot Act, see Shoemaker, “The London ‘Mob’ in the Early Eighteenth Century,” 296.

¹⁰⁵ *London Journal*, 16 November 1723.

terrible Battle ensued, when several Heads were broke on both Sides; but the Mob not only carried Ward's Body away, but would not suffer the Surgeons to carry off the other Bodies.¹⁰⁶

Here, again, it was possible to see the tension created by the surgeons' presumptuous procurement of criminal bodies. Ward, who the State saw as an obvious threat to the social order, was instead venerated in the only way that his peers could demonstrate at so late a stage. The crowd knew what happened to the bodies of those who were "put into a Hackney Coach," and they would not suffer another of their number's corpses to be dismembered and denied a decent burial. The crowd believed so strongly in their right to at least a burial that not only was Ward's body rescued from the surgeons that day, but also the bodies of Francis Owen, John Talton, and Christopher Freeman.¹⁰⁷ The open defiance of the "Mob" to their social superiors was met with obvious disdain and calls for a new legal statute as "If such Things as these are not prevented, the Mob will, in Time, it's supposed, rescue the very Prisoners as they go to the Gallows."¹⁰⁸ While the presence of the surgeons at Tyburn caused "such Things", their role was conspicuously absent from the report. Masked in the guise of disgust and condescension, it was fear of the "Mob" that would push the State to finally intervene for the surgeons.

The crowd's collective action at the execution of George Ward was an outgrowth of sentiment being too far offended. The clear distaste for the surgeons' actions is

¹⁰⁶ *Read's Weekly Journal or British Gazetteer*, 29 May 1736.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

expressed in the “several Heads . . . broke on both Sides,” and the concerted effort to ensure that the surgeons would leave Tyburn empty-handed. While this action proceeds apace with other historians’ understandings of collective action in the eighteenth-century, the mob used the dead criminal body to criticize and mock the actions of their superiors, both the surgeons and the State. In March 1738, seven criminals met their end at Tyburn, two of which were carried away for dissection.¹⁰⁹ This time, the surgeons successfully secured one body for Surgeon’s Hall, and a private surgeon purchased the body of Isaac Mortershed. When Mortershed’s corpse arrived at the surgeon’s house, the “Rabble assaulted the House, [and] took away the body.”¹¹⁰ This was not surprising or unique. However, instead of then burying Mortershed’s body, the crowd carried the body through the streets, over a bridge, and “offer’d it to Sale at St. Thomas’s Hospital.”¹¹¹ Presumably delighted at this strange turn of events in their favor, the surgeons offered money for the corpse but were snubbed as the crowd decided St. Thomas’ surgeons did not “bid Money enough for it.”¹¹² The crowd then “smeered the Carcase with Pitch, and buried it in St. George’s Fields.”¹¹³ This final action seems disrespectful, but, like most contemporary reporting of the “Rabble” and their actions, it was only presented as such in opposition to that which their social superiors deemed appropriate. Rather, the crowd’s decision to

¹⁰⁹ *London Spy Revived*, 10 March 1738; *Ordinary of Newgate Account*, 8 March 1738.

¹¹⁰ *London Spy Revived*, 10 March 1738.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ *Ibid.*

cover the corpse with pitch was a final act of respect for Mortershed's body, as it ensured that the corpse could not subsequently be exhumed and dissected.

It seems unfathomable now that the "Mob" or the "Rabble" seemed complicit in the scene at Tyburn, at least to the extent that they did not attempt to rescue those who made their way to the gallows as their betters feared. But however strange, this rarely if ever occurred. Instead, contemporary sources documented public outcry at the treatment of the body post-mortem. The Ordinary of Newgate reported in his *Account* the state of the malefactors' souls and countenance at the moment of execution, but the popular press fixated on the state of the body. In 1752, but before the passage of the Murder Act, Abraham Ward suffered a "full ten Minutes in visible Agitation, after being turned off, which is four Times more than is ordinary in like Cases."¹¹⁴ At the execution of Mary Blandy, "the utmost Decorum was observed" until it came time to carry away her corpse. Neither coffin nor hearse was provided for Blandy's corpse, so it was instead "carried through the Crowd upon the Shoulders of one of the Sheriff's Men, in a most beastly Manner, with her Legs exposed very indecently for several hundred yards."¹¹⁵ It was the surgeons and their attempts to take the corpse which incited most of the violent action reported at Tyburn. Attempts by the surgeons to secure criminal corpses was the final straw for the public.

¹¹⁴ *Read's Weekly Journal or British Gazetteer*, 16 December 1752.

¹¹⁵ *The Ladies Magazine*, 27 June 1752.

Passing the Murder Act

With the passage of the Murder Act, the onus of procurement and order then fell to the State. The chaos at Tyburn, such as that in 1723, 1736, 1738, and 1739 – could only be resolved by legal intervention, and those statutes passed against mere rioting no longer sufficed to maintain order. Under the looming threat of disorder posed by the “Rabble” who “had not the least Notion of any such extraordinary Measure of Guilt in their Proceedings,” the government needed a more effective strategy. By 1752, it had “thereby become necessary, that some further Terror and peculiar Mark of Infamy be added to the Punishment of Death.”¹¹⁶ The dissection of criminals served multiple ends for the State: it pacified the surgeons, appealed to the elite trend of utility, placed England amongst the countries that encouraged the arts and sciences, endeavored to provide exemplary deterrence, and exemplified the power of the government to control the bodies of subjects. The Act obviously pleased the surgeons. It allowed them to bypass their excruciating negotiation with the public and each other over the efficacy of their practice and the beauty of their art. However, the passage of the Act did little to solve the surgeon’s need for bodies. While the Act clearly ordered that “in no Case whatsoever the Body of any Murderer shall be suffered to be buried; unless after such Body shall have been dissected and anatomized,” the murder rate in England was never very high.¹¹⁷ If

¹¹⁶ *An Act for better Preventing the Horrid Crime of Murder*, 1752, II Geo., c. XXVII.

¹¹⁷ Between 1700 and 1752 there were a total of 153 murder convictions out of a total 708 cases brought before the Old Bailey. Between 1752 and the Anatomy Act of 1832, which mandated that any person who died while receiving state assistance (such as in a workhouse, etc.), would be donated to the surgeons for dissection, the Old Bailey handed down 137 murder convictions. Only 56 of those convicted were mandated the additional punishment of dissection.

two to four bodies were needed per student in each six-week winter course of anatomy, added to the amount of corpses necessary for public anatomy lectures at Surgeon's Hall, even the supply of murderers' corpses from Tyburn could not satisfy the surgeons' demand. Furthermore, those convicted of murder and condemned for dissection often had their sentences commuted to hanging or being displayed in chains at the scene of the crime, but that is a story for another study.¹¹⁸

The surgeons may have won the battle, but they did not win the war. The passage of the Murder Act did nothing to reverse the perception of surgeons as callous and uncaring, one wrong cut away from "quackery." The surgeons' reputation was instead now wedded to that of the State. Contemporaries continued to disparage the practice of dissection, and the public still reacted violently when surgeons overstepped their bounds. Instances of bodysnatching escalated after the passage of the Murder Act, and by the nineteenth century gave rise to "burking" and "burkophobia".¹¹⁹ Surgeons continued to struggle against "quacks" and for voice in the Parliament and other "august Bodies". But their legitimacy proceeded apace, and their particular scientific view of the body eventually triumphed in divorcing patients from traditional agency over their bodies. The

¹¹⁸ Between the passage of the Murder Act in June 1752 and December 1760, only eight people were condemned for "death and dissection" according to the Old Bailey proceedings. However, in attempting to cross-reference these names between the Old Bailey proceedings (which only provide convictions) and the Ordinary of Newgate's *Accounts* (that demonstrate whether or not the conviction was carried out), two of the eight, Elizabeth Barnes alias Dove and Richard Jeffreys, disappear from the record and so I cannot say for certain whether or not their bodies were dissected at Surgeon's Hall. Ordinary of Newgate's *Account*, 23 February 1756 and *Old Bailey Proceedings*, 4 December 1755.

¹¹⁹ "Burking" refers to the act of killing a person, usually a vagrant, to sell their body to the surgeons, thereby undercutting other resurrectionist gangs. The term was coined after Burke and Hare, two men convicted of this practice, were executed and their bodies dissected and anatomized.

social changes in death and dying wrought by the Reformation became crystallized on the dissection table, the inner workings of life exposed. Under the calculating gaze and concerted efforts of anatomists, the dead criminal body provided the ultimate solution for an ailing body politic.

CONCLUSION

ON DIVISIONS

The historian, by habit, is a passive reporter, studying the combatants of yesterday, while those of today clash outside his window ... Are we historians not humans first, and scholars because of that?

- Howard Zinn, *The Politics of History*

I still believe that peace and plenty and happiness can be worked out some way. I am a fool.

- Kurt Vonnegut, *Jailbird*

There is a community kitchen on Howard Street in Chicago that serves dinner every single night of the year. The kitchen has no barrier to entry, which is unique in a city that is home to tens of thousands of people who desperately need a meal. Patrons of this community kitchen are startling in their diversity – in age, income, gender, race, and in ability. Several look out of place, perhaps because they are embarrassed and think this is the version of themselves at their worst. Or, their clothes look “too good” against the cracking floors and strange smell emanating from the broom closet, a result of the sewer backup the kitchen cannot afford right now to fix. Others have made the kitchen their home, an extension of the informal families and communities they have built outside the kitchen in order to survive. The staff are intentional in their use of “community” to describe the kitchen, rather than the normative descriptor “soup”. There is a dignity to the place that is hard to describe without experiencing it, but it comes from a beautiful place in the human spirit that wants to provide people with a modicum of control in daily lives that are otherwise chaotic or dangerous. There is a desperation to the place, too, that

comes from a darker corner of the human experience – that of victimization and vilification. While the kitchen will not turn anyone away, most come through the doors because modern society does not have the same general policy.

Howard serves as the dividing line between Chicago and the more affluent Evanston. In every place except for the blocks surrounding the kitchen, the north side of the street belongs to Evanston, and the south belongs to the city. Crime and poverty have pushed that line further north around the kitchen and the neighborhood it mainly serves. Evanston does not want it. The neighborhood is almost evenly split between black and white, unemployment is at 14.9 percent and 34 percent of the neighborhood's residents live below the poverty line.¹ North of Calvary Cemetery, where the southeastern border of Evanston begins, unemployment is half that of its southern neighbor, and only 7.2 percent of residents live below the poverty line. The boundary is no accident, and the fact that the dividing line is a cemetery, while probably incidental, is distressingly appropriate. The line between the haves and have-nots is too often one marked by life or death.

Society needs the living bodies of patrons of the community kitchen in order to define that line. Many of the patrons look as though they belong there. Their appearance, paired with the appropriate context of a kitchen that serves those in need, creates a tangible Other to which others can point and say, "At least I am not like them." Visible distinctions between right and wrong, success and failure, inclusion and exclusion, are just as important today as they were in the early English Atlantic world. The alcoholic in

¹ "Poor by Comparison: Report on Illinois Poverty, January 2015," Social Impact Research Center, http://www.ilpovertyreport.org/sites/default/files/uploads/PR15_Report_FINAL.pdf

the community kitchen is the modern idle laborer wasting his life on “noxious Spirits”. The ex-convict who cannot find a job because of his record returns to crime “like senseless Swine to [his] vomit.” The poor play an important role in modern society, because their existence allows their betters to define, take pride in, and jealously guard, their own continued inclusion in a civilized body politic. Success is a vague term with ambiguous markers. Anyone can wear a suit, but not everyone can afford food. The poor are criminalized for their need, if not explicitly then certainly in the pervasive disdain of the better tax brackets. Many of the patrons have internalized society’s condescension and direct it outwards to anyone else they deem less than themselves. Every man can be a king, so long as he has someone to look down on. The American moralist Kurt Vonnegut, Jr., said it best:

Americans, like human beings everywhere, believe many things that are obviously untrue. Their most destructive untruth is that it is very easy for any American to make money. They will not acknowledge how in fact hard money is to come by, and, therefore, those who have no money blame and blame and blame themselves. This inward blame has been a treasure for the rich and powerful, who have had to do less for their poor, publicly and privately, than any other ruling class since, say, Napoleonic times. Many novelties have come from America. The most startling of these, a thing without precedent, is a mass of undignified poor. They do not love one another because they do not love themselves.²

This population of “undignified poor” are the unwitting inheritors of the starving laborer in early colonial Virginia, the Ordinary’s congregation of the condemned, abused and desperate sailors in the Atlantic, and the dissected in London’s surgical theatres.

² Kurt Vonnegut, *Slaughterhouse-Five, Or The Children’s Crusade* (New York: Random House, 1969), 129.

This dissertation has presented two related arguments that, if followed forward through the centuries, eventually culminate in the community kitchen on Howard Street. The first argument is that the early modern conception of the body and the body politic required the creation and affirmation of definitive corporeal markers that indicated inclusion in, or exclusion from, society. These markers were almost always defined by a certain group seeking to claim, reaffirm, or create justifications for their authority. Because public execution was a popular, public, and constant feature in the early modern English world, the criminal body was the most useful body on which to display those necessary corporeal markers. If the criminal body did not exist, it could be created, as the Virginia Company discovered in the early seventeenth century. Over the course of these chapters, that early modern conception of the body was falling away in favor of a more diffuse authority that still utilized the criminal body to explain, justify, redefine, and educate. This or that body, said authority, is a bad body, and therefore worthy of destruction. Authority invited everyone to see and to learn from the criminal body. Here was the idle man who dreamed of opportunity and found himself the victim of his master's greed, the thief who was denied access to the market by virtue of his birth and station, this sailor who saw his wages shrink while his captain's abuse and the merchant's account grew, the murderer who lay in pieces on the dissection table. The criminal body was offered up as a martyr for the advancement of civilization, at the same time that criminal was vilified for daring to impede the valiant forward march of the body politic into globalized capitalism.

The second argument of this dissertation is that understanding how authority used the criminal body to delineate social and economic boundaries illuminates otherwise hidden justifications for modern capitalism. Capitalism works best when the modes of production are marshaled in service of a ruling elite. The creation of division between social groups is crucial to this program. In Virginia, the laborer was separated from those who exploited his/her labor via the criminalization of a perceived idleness. It was the criminally idle laborer who impeded the success of the colonial venture, and of the adventurers and investors who labored in a different way to secure profits for themselves, and themselves only. Those awaiting execution in the condemned hold at Newgate were separated from their socioeconomic peers as part of a program by the ruling elite to justify their claims to authority and power. Sailors brought before the High Court of Admiralty on charges of piracy were quick to distance themselves from the crime by vocalizing their own inclusion in the body politic. The High Court of Admiralty sought to more clearly delineate the boundaries that surrounded piracy by distinguishing the crimes of the pirate from the all-too-similar practices of the early capitalist State. Finally, the surgeons literally cut the corrupt and criminal body from the body politic in an attempt to demonstrate the superiority of their scientific knowledge, its efficacy in healing the wounds of civilized society by eliminating the undesirable so the worthy might be better served, and the need to separate feelings for the body from its counterpart the soul.

Society has always needed the criminal, even as virtually every society attempts to eradicate him or her. Without the criminal, there are less ways to measure the “good”, the “appropriate”, the included. The criminal is displayed, either overtly or implicitly, in

order to provide the rest of society with a line that cannot be crossed if society is to work at all. Capitalism has only heightened the need for this division because authority is more diffuse in the capitalist State than in the early modern world. Without markers, the body politic is at risk of becoming rudderless in an ocean of ambiguity. Authority creates new criminals in order to combat new uncertainties. The poor English laborer found common cause with the African slave, and so race came to distinguish the included from the excluded. The common criminal looked too much like the common man, and so the pure of heart were elevated to a theoretical incorporation into the body politic while the palpable benefits of that admittance were continually denied to them. The merchant and the pirate wore the same clothes, robbed on a grand scale, and indulged themselves in similar ways, but the pirate's body rotted at the end of a noose while the merchant decomposed in opulent splendor. The Golden Age of Piracy ended, and the capitalist State continued to grow. The surgeon, by virtue of his being a professional, could not also be a criminal and so the poor were criminalized in order that they might become saints under the surgeon's knife. Medical advancement is called progress.

The modern capitalist State relies on novel divisions between groups that are subtle and more pervasive than those made at the public execution, but the corporeal markers of these new divisions are early modern in spirit. These corporeal markers are produced, affirmed, and perpetuated across several levels of modern society, and all are so because of a need to support different hierarchies. Spaces are delineated as indicators of inclusion and exclusion, and those who exist within them are similarly marked. The gallows of the early modern world have been replaced by the public housing high rise

building in the “bad” neighborhood, homeless shelters and “tent cities”, the food pantry and the community kitchen. The spaces are visually distinct in order to mark the different. Those who live in public housing or certain neighborhoods are cordoned off in other spaces, too, such as failing schools or “food deserts”, which add to the burden of division by their perpetuation of social and economic difference. These types of exclusions are experienced corporeally by the people who are victims of them. The quality of public or subsidized housing is dangerous to those who live there. Poor maintenance as a result of cost-cutting measures by corporate realty companies or “slum lords” lead to sewage problems, fire hazards, cockroach and rat infestations, mold, and all other manner of unhealthy environments. In neighborhoods where there is not a grocery store to be found, but a McDonalds is offered at every corner, the poor necessarily subsist on an unhealthy diet of empty carbohydrates and processed sugars. One patron at the community kitchen gets a job, but she lives in a shelter where it is unsafe to use the shower because of budget cutbacks. Now, on top of keeping body and soul together, she has to afford new clothing and keep her appearance neat so that she does not lose her job. Another patron, a young veteran, lives in an SRO (single-resident occupancy) where his daily rent has been raised to an almost untenable level, while the bathroom ceiling caved in after a rainstorm. It still has not been fixed. An entire segment of the population of modern society is excluded, and then denied access in the future because of their education, their gender, their skin color, and other corporeal barriers. Modern society has no Virginia to dump their “superfluous” population, it has the prison system. Modern society has no public gallows or Bloody Code, but it has fast food, a lack of healthcare,

guns, and the inner-city. Follow any argument against a social safety net to its logical conclusion, and what is left is a modern-day Tyburn.

Divisions are destructive to the social fabric of humanity, but spaces intended for exclusion are also catalysts for change. The inherent contradiction in the capitalist State is that it is successful only so far as the *promise* of inclusion is maintained. While divisions exist, their boundaries are fluid because of this suggestion. In neighborhoods where people are marked by the color of their skin and are blamed for the violence that surrounds them, people are united by their uniqueness and turn it into something positive like tenant-rights groups, CeaseFire, and community organizations. Communities are formed on the basis of those divisions imposed from above in direct opposition to authority's message that those who are different are somehow less because of that distinction. Like the pirates who built a new world order in the same ships that once oppressed them, beautiful and inspiring movements arise out of division. Spaces like the community kitchen on Howard Street, where the mission is to include those who have been excluded, grow into organizations that have a broader impact on the social and political forces that necessitate the existence of the kitchen in the first place. The kitchen, unlike the capitalist State, works for its own eventual disappearance, because that, rather than profit margins (of which there are none), will signify success. The visibility of the different terrifies some, but inspires others to work to transcend those distinctions. If the crowd at Tyburn did not know the condemned whose body might be taken by the surgeons, members of that same crowd understood on some deeper human level that what

happened to that body was wrong. People can change, just as boundaries and divisions transform and adapt according to society's needs.

Empathy exists on the other side of division, and its boundaries are defined and experienced through the body as well. So, "This is what you shall do," said Walt Whitman in his preface to *Leaves of Grass*,

Love the earth and sun and the animals, despise riches, give alms to every one that asks, stand up for the stupid and crazy, devote your income and labor to others, hate tyrants, argue not concerning God, have patience and indulgence toward the people, take off your hat to nothing known or unknown or any man or number of men, go freely with powerful uneducated persons and with the young and with the mothers of families ... dismiss whatever insults your own soul, and your very flesh shall be a great poem and have the richest fluency not only in words but in the silent lines of its lips and face and between the lashes of your eyes and in every motion and joint of your body.

What began with a warning ends now with hope. As Vonnegut says, "So it goes."

BIBLIOGRAPHY

- Allen, Theodore W. *The Invention of the White Race: The Origin of Racial Oppression in Anglo-America*, 2 vols. New York: Verso, 1997.
- Anderson, Fred. *The Crucible of War: The Seven Years' War and the Fate of Empire in British North America, 1754-1766*. New York: Alfred A. Knopf, 2000.
- Applebaum, Robert and John Wood Sweet, ed. *Envisioning an English Empire: Jamestown and the Making of the North Atlantic World*. Philadelphia: University of Pennsylvania Press, 2005.
- Appleby, John C. "War, Politics, and Colonization, 1558-1625." In *The Oxford History of the British Empire: The Origins of Empire- British Overseas Expansion to the Close of the Seventeenth Century*, edited by Nicholas Canny. Oxford: Oxford University Press, 1998.
- Armitage, David. *The Ideological Origins of the British Empire*. New York: Cambridge University Press, 2001.
- Armitage, David and Michael J Braddick. *The British Atlantic World, 1500-1800*. New York: Palgrave Macmillan, 2002.
- Bailyn, Bernard. *The Ideological Origins of the American Revolution*. Cambridge: Belknap Press of Harvard University Press, 1968.
- Beckles, Hillary McD. *White Servitude and Black Slavery in Barbados, 1627-1715*. Knoxville: University of Tennessee Press, 1989.
- Beier, A.L. "Vagrants and the Social Order in Elizabethan England." *Past and Present* 64 (1974): 3-29.
- Bellany, Alastair. "The Murder of John Lambe: Crowd Violence, Court Scandal and Popular Politics in Early Seventeenth-Century England." *Past and Present* 200 (2008): 37-76.
- Berlin, Ira. *Many Thousands Gone: The First Two Centuries of Slavery in North America*. Cambridge: Belknap Press of Harvard University Press, 1998.

- Bland, Lucy and Laura Doan, editors. *Sexology in Culture: Labeling Bodies and Desires*. Chicago: University of Chicago Press, 1998.
- Bordo, Susan. "Reading the Male Body." In *Building Bodies*, edited by Pamela L. Moore, 31-73. New Brunswick: Rutgers University Press, 1997.
- Bordo, Susan R. "The Body and the Reproduction of Femininity: A Feminist Appropriation of Foucault." In *Gender/Body/Knowledge: Feminist Reconstructions of Being and Knowing*, edited by Alison M. Jaggar and Susan R. Bordo, 13-33. New Brunswick: Rutgers University Press, 1992.
- Bottomley, F. *Attitudes to the Body in Western Christendom*. London: Lepus Books, 1979.
- Brenner, Robert. *Merchants and Revolution: Commercial Change, Political Conflict, and London's Overseas Traders, 1550-1653*. Princeton: Princeton University Press, 1993.
- Broadbent, J. "The Image of God, or Two Yards of Skin." In *The Body as a Medium of Expression*, ed. J. Benthall and T. Polhemus, 305-326. New York: Dutton, 1975.
- Brown, Kathleen M. *Good Wives, Nasty Wenches, and Anxious Patriarchs: Gender, Race, and Power in Colonial Virginia*. Chapel Hill: University of North Carolina Press, 1996.
- Brown, Vincent. *The Reaper's Garden: Death and Power in the World of Atlantic Slavery*. Cambridge: Harvard University Press, 2008.
- Bucholz, Robert O. *The Augustan Court: Queen Anne and the Decline of Court Culture*. Stanford: Stanford University Press, 1993.
- Bucholz, R O and Joseph P Ward. *London: A Social and Cultural History, 1550-1750*. Cambridge: Cambridge University Press, 2012.
- Burke, Peter. "Popular Culture in Seventeenth-Century London." In *Popular Cultures in Seventeenth-Century England*, ed. B. Reay, 31-58. New York: St. Martin's Press, 1985.
- Butler, Judith. "Bodies that Matter." In *Feminist Theory and the Body: A Reader*, edited by Janet Price and Margrit Shildrick, 235-245. New York: Routledge, 1999.
- Bynum, Caroline Walker. "Why All the Fuss About the Body? A Medievalist's Perspective." *Critical Inquiry* 22 (1995): 1-33.

- Bynum, Caroline Walker. *The Resurrection of the Body in Western Christianity, 200-1336*. New York: Columbia University Press, 1995.
- Camporesi, Piero. *The Incorruptible Flesh: Bodily Mutation and Mortification in Religion and Folklore*. Cambridge: Cambridge University Press, 1988.
- Cañizares-Esguerra, Jorge. *How to Write the History of the New World: Histories, Epistemologies, and Identities in the Eighteenth-Century Atlantic World*. Stanford: Stanford University Press, 2001.
- Canning, Kathleen. "The Body as Method? Reflections on the Place of the Body in Gender History." *Gender and History* 11 (1999): 499-513.
- Canny, Nicholas. *Kingdom and Colony: Ireland and the Atlantic World, 1560-1800*. Baltimore: Johns Hopkins University Press, 1988.
- Clark, J.C.D. *English Society, 1660-1832: Religion, Ideology and Politics during the Ancien Regime*. Cambridge: Cambridge University Press, 2000.
- Clark, Peter. "The Alehouse and the Alternative Society." In *Puritans and Revolutionaries*, edited by D H Pennington, 47-72. Oxford: Clarendon Press, 1978.
- Clark, Peter. "Migration in England During the Late Seventeenth and Early Eighteenth Centuries." *Past and Present* 83 (1979): 57-90.
- Clymer, Lorna. "Cromwell's Head and Milton's Hair: Corpse Theory in Spectacular Bodies of the Interregnum." *Eighteenth Century: Theory and Interpretation* 40 (1999): 91-112.
- Cogswell, Thomas. "John Felton, Popular Political Culture, and the Assassination of the Duke of Buckingham." *The Historical Journal* 49 (2006): 357-385.
- Collinson, Patrick. *The Monarchical Republic of Elizabeth I*. Manchester: J.R.U.L., 1987.
- Cooter, Roger. "After Death/After-'Life': The Social History of Medicine in Post-Postmodernity." *Social History of Medicine* 20 (2007): 441-464.
- Cressy, David. *England on Edge: Crisis and Revolution, 1640-1642*. Oxford: Oxford University Press, 2006.
- Cruikshanks, Eveline. *The Glorious Revolution*. London: MacMillan, 2000.
- DeKrey, Gary S. *London and the Restoration, 1659-1683*. Cambridge: Cambridge University Press, 2005.

- Dobson, Jessie. "The 'Anatomizing' of Criminals." *Annals of the Royal College of Surgeons of England* 9 (1951): 112-120.
- Donoghue, John. "'Out of the Land of Bondage': The English Revolution and the Atlantic Origins of Abolition." *American Historical Review* 115 (2010): 943-974.
- Donoghue, John. *Fire Under the Ashes: An Atlantic History of the English Revolution*. Chicago: University of Chicago Press, 2013.
- Duden, Barbara. *The Woman Beneath the Skin: A Doctor's Patients in Eighteenth-Century Germany*. Cambridge: Harvard University Press, 1991.
- Dudley, Scott. "Conferring with the Dead: Necrophilia and Nostalgia in the Seventeenth Century." *ELH* 66 (1999): 277-294.
- Dunn, Richard. *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624-1713*. Chapel Hill: University of North Carolina Press, 1973.
- Edelson, S. Max. *Plantation Enterprise in Colonial South Carolina*. Cambridge: Harvard University Press, 2006.
- Ekirch, Roger A. *Bound For America: The Transportation of British Convicts to the Colonies, 1718-1775*. Oxford: Clarendon Press, 1987.
- Eliot, J.H. *Empires of the Atlantic World: Britain and Spain in America, 1492-1830*. New Haven: Yale University Press, 2006.
- Evans, Richard. *Rituals of Retribution: Capital Punishment in Germany, 1600-1987*. New York: Oxford University Press, 1996.
- Fischer, David Hackett. *Albion's Seed: Four British Folkways in America*. New York: Oxford University Press, 1989.
- Foucault, Michel. *History of Sexuality*. New York: Pantheon Books, 1978.
- Foucault, Michel. *The Birth of the Clinic: An Archaeology of Medical Perception*. New York: Vintage Books, 1994.
- Foucault, Michel. *Discipline and Punish: The Birth of the Prison*. New York: Vintage Books, 1977.
- Friedland, Paul. *Seeing Justice Done: The Age of Spectacular Capital Punishment in France*. Oxford: Oxford University Press, 2012.

- Fryer, Peter. *Mrs. Grundy: Studies in English Prudery*. London: House and Maxwell, 1963.
- Gallagher, Catherine and Thomas Laqueur, ed. *The Making of the Modern Body: Sexuality and Society in the Nineteenth Century*. Berkeley: University of California Press, 1987.
- Games, Alison. *Migration and the Origins of the English Atlantic World*. Cambridge: Harvard University Press, 1999.
- Gilge, Paul A. *Liberty on the Waterfront: American Maritime Culture in the Age of Revolution*. Philadelphia: University of Pennsylvania Press, 2004.
- Greenberg, Janelle. *The Radical Face of the Ancient Constitution*. New York: Cambridge University Press, 2001.
- Greene, Jack P. *The Intellectual Construction of America: Exceptionalism and Identity from 1492 to 1800*. Chapel Hill: University of North Carolina Press, 1997.
- Griffiths, Paul. *Lost Londons: Change, Crime, and Control in the Capital City, 1550-1660*. Cambridge: Cambridge University Press, 2008.
- Griffiths, Paul, ed. *The Experience of Authority in Early Modern England*. New York: St. Martin's Press, 1996.
- Gowing, Laura. *Common Bodies: Women, Touch, and Power in Seventeenth-Century England*. New Haven: Yale University Press, 2003.
- Grosz, Elizabeth. "Intolerable Ambiguity: Freaks as/at the Limit." In *Freakery: Cultural Spectacles of the Extraordinary Body*, edited by Rosemarie Garland Thomson, 55-66. New York: New York University Press, 1996.
- Hatfield, April Lee. *Atlantic Virginia: Intercolonial Relations in the Seventeenth Century*. Philadelphia: University of Pennsylvania Press, 2007.
- Harley, David. "Political Post-Mortems and Morbid Anatomy in Seventeenth-Century England." *Social History of Medicine* 7 (1994): 1-28.
- Harris, Tim. *London Crowds in the Reign of Charles II: Propaganda and Politics from the Restoration until the Exclusion Crisis*. Cambridge: Cambridge University Press, 1987.
- Harris, Tim. *Revolution: The Great Crisis of the British Monarchy, 1685-1720*. London: Penguin, 2007.

- Harris, Tim. *Restoration: Charles II and His Kingdoms, 1660-1685*. London: Penguin Books, 2005.
- Harris, Tim. "The Bawdy House Riots of 1668." *The Historical Journal* 29 (1986): 537-556.
- Hay, Douglas. "Property, Authority and the Criminal Law." In *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*, ed. Douglas Hay, et al. New York: Pantheon Books, 1975.
- Herndon, Ruth Wallis. *Unwelcome Americans: Living on the Margin in Early New England*. Philadelphia: University of Pennsylvania Press, 2001.
- Hill, Christopher. *The World Turned Upside Down: Radical Ideas During the English Revolution*. New York: Penguin Books, 1975.
- Hindle, Steve. "Imagining Insurrection in Seventeenth-Century England: Representations of the Midland Rising of 1607." *History Workshop Journal* 66 (2008): 21-61.
- Hitchcock, Tim. *Down and Out in Eighteenth Century London*. London: Hambledon and London, 2004.
- Holmes, Geoffrey. *British Politics in the Age of Anne*. London: MacMillan, 1967.
- Holmes, Geoffrey. *The Making of a Great Power: Late Stuart and Early Georgian Britain, 1660-1722*. London: Longman, 1993.
- Holstun, James. *Ehud's Dagger: Class Struggle in the English Revolution*. London: Verso, 2000.
- Holstun, James. "'God Bless Thee, Little David!': John Felton and his Allies." *ELH* 59 (1992): 513-552.
- Houlbrooke, Ralph. *Death, Religion and the Family in England, 1480-1750*. Oxford: Oxford University Press, 1998.
- Hughes, Ann. *The Causes of the English Civil War*. New York: St. Martin's Press, 1991.
- Hurren, Elizabeth and Steve King. "'Begging for a Burial': Form, Function and Conflict in Nineteenth-Century Pauper Burial." *Social History* 30 (2005): 321-341.
- Hutton, Ronald. *The Restoration: A Political and Religious History of England and Wales, 1658-1667*. Oxford: Clarendon Press, 1985.

- Hutton, Ronald. *Charles II: King of England, Scotland, and Ireland*. Oxford: Clarendon Press, 1989.
- Ignatieff, Michael. *A Just Measure of Pain: The Penitentiary in the Industrial Revolution, 1750-1850*. New York: Pantheon, 1978.
- Ingram, Martin. "Ridings, Rough Music and the 'Reform of Popular Culture' in Early Modern England." *Past and Present* 105 (1984): 79-113.
- Isenberg, Nancy and Andrew Burstein, ed. *Mortal Remains: Death in Early America*. Philadelphia: University of Pennsylvania Press, 2003.
- Jenner, Mark S.R. "Death, Decomposition and Dechristianisation? Public Health and Church Burial in Eighteenth-Century England." *English Historical Review* 120 (2005): 615-632.
- Jennings, Francis. *The Invasion of America: Indians, Colonialism, and the Cant of Conquest*. Chapel Hill: University of North Carolina Press, 1975.
- Kantorowicz, Ernst. *The King's Two Bodies: A Study in Mediaeval Political Theology*. Princeton: Princeton University Press, 1957.
- Kennedy, Geoff. *Diggers, Levellers, and Agrarian Capitalism: Radical Political Thought in Seventeenth Century England*. New York: Rowman and Littlefield, 2009.
- Key, Newton and Robert Bucholz. "Order and Disorder in Tudor England." In *Sources and Debates in English History, 1485-1715*, edited by Newton Key and Robert Bucholz, 1-19. Oxford: Oxford University Press, 2004.
- Klaver, Elizabeth, ed. *The Body in Medical Culture*. Albany: SUNY Press, 2009.
- Knoppers, Laura Lunger and Joan B Landes, eds. *Monstrous Bodies/Political Monstrosities in Early Modern Europe*. Ithaca: Cornell University Press, 2004.
- Kupperman, Karen Ordahl. *Indians and English: Facing Off in Early America*. Ithaca: Cornell University Press, 2000.
- Laqueur, Thomas. "Orgasm, Generation and the Politics of Reproductive Biology." In *The Making of the Modern Body*, ed. Catherine Gallagher and Thomas Laqueur, 1-41. Berkeley: University of California Press, 1987.
- Laqueur, Thomas W. "Bodies, Death, and Pauper Funerals." *Representations* 1 (1983): 109-131.

- Laqueur, Thomas W. "Bodies, Details, and the Humanitarian Narrative." In *The New Cultural History*, edited by Lynn Hunt, 177-204. Berkeley: University of California Press, 1989.
- Laqueur, Thomas W. and Lisa Forman Cody. "Birth and Death Under the Sign of Thomas Malthus." In *A Cultural History of the Human Body in the Age of Empire*, edited by Michael Sappol and Stephen P. Rice, 37-60. Oxford: Berg, 2010.
- Latour, Bruno. *Science in Action*. Cambridge: Harvard University Press, 1987.
- Lawrence, C. and S. Shapin, eds. *Science Incarnate: Historical Embodiments of Natural Knowledge*. Chicago: University of Chicago Press, 1998.
- Linebaugh, Peter. *The London Hanged: Crime and Civil Society in the Eighteenth Century*. London: Allen Lane, 1991.
- Linebaugh, Peter. *The Magna Carta Manifesto: Liberties and Commons for All*. Berkeley: University of California Press, 2008.
- Linebaugh, Peter and Marcus Rediker. *The Many-Headed Hydra: Sailors, Slaves, Commoners, and the Hidden History of the Revolutionary Atlantic*. Boston: Beacon Press, 2000.
- Lomperis, Linda and Sarah Stanbury, ed. *Feminist Approaches to the Body in Medieval Literature*. Philadelphia: University of Pennsylvania Press, 1993.
- MacDonald, Michael. "The Secularization of Suicide in England, 1660-1800." *Past and Present* 111 (1986): 50-100.
- MacDonald, Michael. *Mystical Bedlam: Madness, Anxiety and Healing in Seventeenth Century England*. Cambridge: Cambridge University Press, 1981.
- Mangham, Andrew and Greta Depledge, ed. *The Female Body in Medicine and Literature*. Liverpool: Liverpool University Press, 2011.
- Marshall, Alan. *The Age of Faction: Court Politics, 1660-1702*. Manchester: Manchester University Press, 1999.
- May, Rebecca E. "Morbid Parts: Gender, Seduction and the Necro-gaze." In *Sexual Perversions, 1670-1890*, edited by Julie Peakman, 167-201. New York: Palgrave Macmillan, 2009.
- McGowen, Randall. "The Body and Punishment in Eighteenth-Century England." *Journal of Modern History* 59 (1987): 651-679.

- Melzer, Sara E. and Kathryn Norberg, *From the Royal to the Republican Body: Incorporating the Political in Seventeenth- and Eighteenth-Century France*. Berkeley: University of California Press, 1997.
- Merchant, Carolyn. *The Death of Nature: Women, Ecology, and the Scientific Revolution*. New York: Harper, 1990.
- Miller, John. *Charles II*. London: Weidenfeld and Nicolson, 1991.
- Morgan, Edmund S. *American Slavery, American Freedom: The Ordeal of Colonial Virginia*. New York: W.W. Norton and Company, 1975.
- Morgan, Gwenda and Peter Rushton. *Eighteenth-Century Criminal Transportation: The Formation of the Criminal Atlantic*. New York: Palgrave Macmillan, 2004.
- Morgan, Jennifer L. "‘Some Could Suckle Over their Shoulder’: Male Travelers, Female Bodies, and the Gendering of Racial Ideology, 1550-1770." *William and Mary Quarterly* 54 (1997): 167-192.
- Outram, Dorinda. *The Body and the French Revolution: Sex, Class and Political Culture*. New Haven: Yale University Press, 1989.
- Park, Katharine. *Secrets of Women: Gender, Generation, and the Origins of Human Dissection*. MIT Press, 2006.
- Park, Katharine. "The Criminal and the Sainly Body: Autopsy and Dissection in Renaissance Italy." *Renaissance Quarterly* 47 (1994): 1-33.
- Pestana, Carla Gardina. *The English Atlantic in an Age of Revolution, 1640-1661*. Cambridge: Harvard University Press, 2004.
- Pincus, Steven. *1688: The First Modern Revolution*. New Haven: Yale University Press, 2009.
- Plumb, J.H. *The Growth of Political Stability in England, 1675-1725*. London: MacMillan, 1967.
- Pocock, J.G.A. *The Machiavellian Moment: Florentine Political Theory and the Atlantic Republican Tradition*. Princeton: Princeton University Press, 1975.
- Porter, Roy. "Bodies of Thought: Thoughts about the Body in Eighteenth Century England." In *Interpretation and Cultural History*, ed. J. Pittock Wesson and Andrew Wear, 82-108. London: 1990.

- Porter, Roy. *Bodies Politic: Disease, Death, and Doctors in Britain, 1650-1900*. Ithaca: Cornell University Press, 2001.
- Rather, L J and Heironymus David Gaubius. *Mind and Body in Eighteenth-Century Medicine: A Study Based on Jerome Gaub's De Regimine Mentis*. Berkeley: University of California Press, 1965.
- Rediker, Marcus. *Villains of All Nations: Atlantic Pirates in the Golden Age*. Boston: Beacon Press, 2004.
- Rediker, Marcus. *The Slave Ship: A Human History*. New York: Viking, 2007.
- Richardson, Ruth. *Death, Dissection and the Destitute*. Chicago: University of Chicago Press, 1987.
- Richter, Simon. *Missing the Breast: Gender, Fantasy, and the Body in the German Enlightenment*. Seattle: University of Washington Press, 2006.
- Rollison, David. *A Commonwealth of the People: Popular Politics and England's Long Social Revolution, 1066-1649*. Cambridge: Cambridge University Press, 2010.
- Roper, Lyndal. *Oedipus and the Devil: Witchcraft, Sexuality, and Religion in Early Modern Europe*. London: Routledge, 1994.
- Sawday, Jonathan. *The Body Emblazoned: Dissection and the Human Body in Renaissance Culture*. New York: Routledge, 1995.
- Scarry, Elaine. *The Body in Pain: The Making and Unmaking of the World*. New York: Oxford University Press, 1985.
- Scott, Jonathan. *Commonwealth Principles: Republican Writing of the English Revolution*. Cambridge: Cambridge University Press, 2004.
- Scott, Jonathan. *England's Troubles: Seventeenth-Century English Political Instability in European Context*. Cambridge: Cambridge University Press, 2000.
- Schiebinger, Londa. *The Mind Has No Sex? Women in the Origins of Modern Science*. Cambridge: Harvard University Press, 1989.
- Schochet, Gordon J. "Patriarchalism, Politics and Mass Attitudes in Stuart England." *The Historical Journal* 12 (1969): 413-441.
- Seeman, Erik R. *Death in the New World: Cross-Cultural Encounters, 1492-1800*. Philadelphia: University of Pennsylvania Press, 2010.

- Sennett, Richard. *Flesh and Stones: The Body and the City in Western Civilization*. New York: W.W. Norton and Company, 1994.
- Shepard, Alexandra. "Manhood, Credit and Patriarchy in Early Modern England, c. 1580-1640." *Past and Present* 167 (2000): 75-106.
- Shoemaker, Robert B. "The London 'Mob' in the Early Eighteenth Century." *Journal of British Studies* 26 (1987): 273-304.
- Silverman, Lisa. *Tortured Subjects: Pain, Truth, and the Body in Early Modern France*. Chicago: University of Chicago Press, 2001.
- Skinner, Quentin. *Liberty before Liberalism*. Cambridge: Cambridge University Press, 1998.
- Slack, Paul A. "Vagrants and Vagrancy in England, 1598-1664." *The Economic History Review* 27 (1974): 360-379.
- Smith, Virginia. "Physical Puritanism and Sanitary Science: Material and Immaterial Beliefs in Popular Physiology 1650-1840." In *Medical Fringe and Medical Orthodoxy 1750-1850*, ed. W.F. Bynum and Roy Porter, 174-197. London: Croom Helm, 1986.
- Smolenski, John and Thomas J Humphrey, ed. *New World Orders: Violence, Sanction, and Authority in the Colonial Americas*. Philadelphia: University of Pennsylvania Press, 2005.
- Sommerville, J.P. *Royalists and Patriots: Politics and Ideology in England, 1603-1640*. London: Longman, 1986.
- Speck, W.A. *Reluctant Revolutionaries: Englishmen and the Revolution of 1688*. Oxford: Oxford University Press, 1989.
- Stone, Lawrence. *Family, Sex and Marriage, 1500-1800*. New York: Harper and Row, 1977.
- Thomas, Keith. *Religion and the Decline of Magic*. New York: Scribner, 1971.
- Thompson, E.P. "The Moral Economy of the English Crowd in the Eighteenth Century." *Past and Present* 50 (1971): 76-136.
- Thompson, E.P. "Patrician Society, Plebeian Culture." *Journal of Social History* 7 (1974): 382-405.

- Thompson, E.P. *The Making of the English Working Class*. London: Vintage Books, 1963.
- Thompson, E.P. *Customs in Common*. New York: New Press, 1991.
- Turner, Bryan S. *The Body and Society: Explorations in Social Theory*. Oxford: Blackwell, 1984.
- Turner, Bryan S. *Medical Power and Social Knowledge*. London: 1987.
- Underdown, David. *Fire from Heaven: Life in an English Town in the Seventeenth Century*. London: Harper Collins, 1992.
- Van Dulmen, Richard. *Theatre of Horror: Crime and Punishment in Early Modern Germany*. Cambridge: Polity, 1990.
- Walcott, Robert. *English Politics in the Early Eighteenth Century*. Oxford: Clarendon Press, 1956.
- Walter, John. *Understanding Popular Violence in the English Revolution: The Colchester Plunderers*. Cambridge: Cambridge University Press, 1999.
- Western, J. R. *Monarchy and Revolution: The English State in the 1680s*. Totowa, NJ: Rowman and Littlefield, 1972.
- Williams, Dale Edward. "Were 'Hunger' Rioters Really Hungry? Some Demographic Evidence." *Past and Present* 71 (1976): 70-75.
- Williams, Dale Edward. "Morals, Markets and the English Crowd in 1766." *Past and Present* 104 (1984): 56-73.
- Withington, Phil. *The Politics of Commonwealth: Citizens and Freemen in Early Modern England*. New York: Cambridge University Press, 2005.
- Wood, Andy. *Riot, Rebellion and Popular Politics in Early Modern England*. New York: Palgrave, 2002.
- Wood, Andy. "Poore Men Woll Speke One Daye': Plebeian Languages of Deference and Defiance in England, c. 1520-1640." In *The Politics of the Excluded, c. 1500-1850*, edited by Tim Harris, 67-98. New York: Palgrave Macmillan, 2001.
- Wood, Andy. "Fear, Hatred and the Hidden Injuries of Class in Early Modern England." *Journal of Social History* 39 (2006): 803-826.

- Wood, Andy. "The Specter of the Commonalty: Class Struggle and the Commonweal in England before the Atlantic World." *William and Mary Quarterly* 63 (2006): 221-252.
- Wood, Ellen Meiksins and Neal Wood. *A Trumpet of Sedition: Political Theory and the Rise of Capitalism, 1509-1688*. New York: New York University Press, 1997.
- Wormald, Jenny. *The Seventeenth Century*. Oxford: Oxford University Press, 2008.
- Wrightson, Keith. *English Society, 1580-1680*. London: Hutchinson, 1982.
- Wrightson, Keith. "The Social Order of Early Modern England: Three Approaches." In *The World We Have Gained: Essays Presented to Peter Laslett on his Seventieth Birthday*, edited by L. Bonfield, R.M. Smith and Keith Wrightson, 177-202. Oxford: Oxford University Press, 1986.
- Wrigley, E.A. "A Simple Model of London's Importance in Changing English Society and Economy, 1650-1750." *Past and Present* 37 (1967): 44-70.
- Zigarovich, J. "Preserved Remains: Embalming Practices in Eighteenth-Century England." *Eighteenth-Century Life* 33 (2009): 65-104.

VITA

Dr. Feichtinger was born and raised in Omaha, Nebraska. She holds a bachelor's degree in Special Education from Loyola University Chicago, and has taught in several classrooms to a diverse array of students and abilities. She entered the doctoral program in Transnational Urban and Atlantic History at Loyola University Chicago in 2010. Her research interests include theories of the body, history of capitalism, social history, and history of medicine.

Dr. Feichtinger spends most of her time working at A Just Harvest in Rogers Park, on Chicago's north side. She oversees its food pantry and community kitchen, a service that provides dinner to an average of 120 people every night of the year. She is also currently illustrating several children's books, and is working on developing a non-profit aimed at providing storage units and community spaces for Chicago residents struggling with chronic homelessness.